

per Concordiam

Journal of European Security and Defense Issues

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■ **MAXIMIZING SOCIAL MEDIA**

Mining the internet to fight crime

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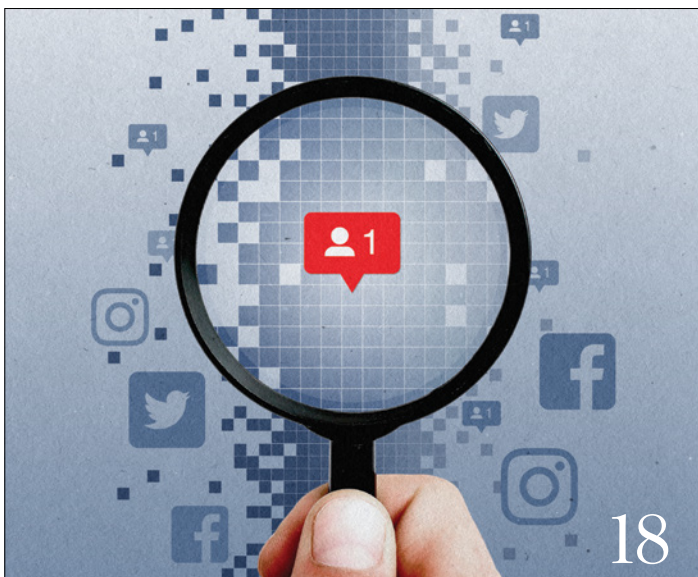
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Transnational organized crime is a multifaceted menace that threatens international stability.

PER CONCORDIAM ILLUSTRATION



GEORGE C. MARSHALL
EUROPEAN CENTER FOR SECURITY STUDIES

Welcome to the 36th issue of *per Concordiam*. In this edition, we revisit the topic of transnational organized crime (TOC) and its impact on national security. The growth of TOC remains a serious security concern across the globe and particularly in Southeast Europe and Central Asia. In these regions, TOC exacts great costs on people's livelihoods, and it undermines the people's confidence in their governments' abilities to counter it. The challenge for most countries is preventing criminal groups from crossing porous borders to engage in illegal activities.

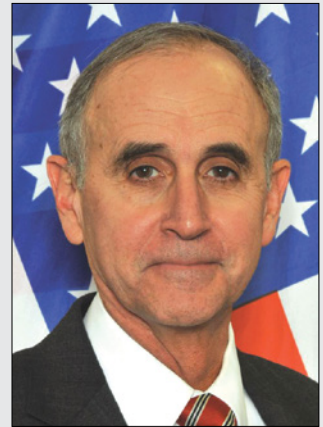
In this issue's Viewpoint, Dr. Paul Rexton Kan notes how defeating TOC requires a thorough understanding of how it works. This requires dispelling myths and stereotypes. Once one understands what drives criminal behavior — the quest for profits and all the actions that entails — one can discuss feasible means to reduce the incidents of such behavior. In doing this, however, Kan cautions against enacting policies that may in turn spur or create new illicit markets and therefore generate additional instability. It is indeed a delicate balancing act.

Joseph Wheatley explains that TOC tends to exploit the financial system, operate covertly, move quickly and show little regard for national borders. These and other factors often make TOC difficult to successfully prosecute. To overcome these hurdles, Wheatley describes how financial intelligence units are designed to specifically support law enforcement authorities by receiving, analyzing and disseminating financial intelligence so that it may be used quickly and effectively in investigations and prosecutions. Through cooperation within and among countries, law enforcement agencies can achieve greater success in fighting TOC.

The Marshall Center continues to address the challenges of countering TOC. The articles in this issue solidify lessons we are imparting in our regular courses throughout the year. These include discussions on countering smuggling operations and corruption. Graduates return to their home countries to share effective practices and integrate them into national strategy and policy. They then share successes in *per Concordiam*. New attendees at our courses read the magazine as a primer for what they will learn in the classroom. As always, we at the Marshall Center welcome comments and perspective 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

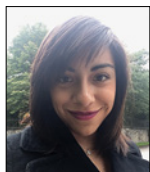
Keith W. Dayton retired as a Lieutenant General from the U.S. Army in late 2010 after more than 40 years of service. His last assignment on active duty was as U.S. Security Coordinator to Israel and the Palestinian Authority in Jerusalem. An artillery officer by training, he also has served as politico-military 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.



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Saša Manojlović is a prosecutor with the State Attorney's Office for the Suppression of Corruption and Organised Crime in Croatia. His expertise includes economic criminal offenses deriving from his work on corruption cases and tax evasion crimes. He was a guest lecturer on the topic of "Rule of Law in the Western Balkans: Lessons and Ways Ahead" at the 35th workshop of the Regional Stability in South East Europe Study Group that was convened in Tirana, Albania, in 2017.



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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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Dispelling MYTHS

Defeating transnational organized crime requires a thorough understanding of how it works

By **DR. PAUL REXTON KAN** | Photos by The Associated Press

Organized crime syndicates and cartels are major nonstate actors in the international environment whose criminal activities rogue states have used for financing or to consolidate power. As transnational entities, mafia-like groups engage in criminal activities that span the globe. But there are other entities involved in complex illegal activities such as illicit trafficking, extortion, protection rackets or money laundering that aren't part of any organized crime syndicate. Some nation states, terrorist organizations and insurgent groups are immersed in organized criminal activities.

National security professionals should care about transnational organized crime (TOC) for a variety of reasons. First, it is now part of the strategic environment and it contributes to international instability. TOC has been dubbed "deviant globalization," the dark underbelly of globalization, and because of its complexity, law enforcement officials find it very hard to peel away the illegal activities from the legal activities because they are intertwined. Unless one can accept shutting down legal globalized trade, then shutting down TOC will prove to be a nearly insurmountable task.

Another reason to pay attention is the national security environment in which military forces, law enforcement officials and policymakers must operate. TOC is an integral part of many fragile states, whether it's drug cartels or terrorists running arms or insurgents skimming drug profits for their operations.



A Japanese Ministry of Defense photo shows what appears to be a transfer of fuel by a North Korean-flagged tanker, left, in violation of United Nations sanctions. Sanctions can be effective deterrents to criminal behavior by states, but can also spur illegal activity by those working to defeat them.

To understand how TOC groups operate, one must dispel some myths and stereotypes. One is their use of excessive violence. True, they are involved in heinous acts of violence. Violence becomes part of the illegal market when there is no market regulator. In addition, gun violence is often used to settle disputes, though not all of the time. But many illegal markets and illegal activities are quite peaceful. A TOC environment of constant violence is a mischaracterization. Some experts regard as old-fashioned the notion of measured violence in TOC. The new TOC style is more likely to

use violence to destabilize governments than to shake down merchants or kill rivals. In effect, they use violence for two purposes: to control internal operations and to create an environment in which they can operate free of government interference.

This leads to the second myth, that governments are not involved in organized crime. For instance, North Korea has an entire portion of its government, Central Committee Bureau 39, dedicated to criminal activities. This is not a case in which law enforcement turns a blind eye or colludes with organized crime. Rather, Bureau 39 is a state-level organized crime actor. The government has nationalized organized crime to the state's benefit. When Vladimir Putin first came to power in Russia, there was considerable mob violence on the streets of Moscow. Putin nationalized mob violence to benefit the state, putting the illegal activities under the Kremlin's control. And he weaponized organized crime to work for the state's interests abroad, whether through Russian banks or through the Russian mafia working in conjunction with groups abroad to send money back to Russia. This has become part of the statecraft of some governments or, in some rare cases, an emergency measure.

The idea that the government is engaged in illegal activity seems incongruous. If the government does it, how can it be illegal since the government has the right to make the laws?

This is not such a great leap because many see organized criminal groups as a form of government with their own kind of bureaucracy.

Likewise, is it really transnational organized *crime*, or is that just a fancy way of saying "smuggling," for example, which if unregulated by the state can be more or less left to its own devices. By operating outside of government protection, though, it will need to inflict violence to protect its operations.

Comprehending the mindset of TOC groups is not easy. For national security professionals, there are books by military theorists, such as Carl von Clausewitz, Antoine-Henri Jomini or Sun Tzu. There is no great organized crime strategist who has written a treatise to match those theorists. Without this, one is left to cobble together from observation what might be dubbed the five "laws" of TOC.

The first law is establishing a profit-based business in an illegal market. An "entrepreneur" provides some product or service that is not permitted in the legal world, such as drugs or prostitution. The second law concerns the use of directed violence, rather than random violence. Violence is employed to obtain internal cohesion, keep the group together, or identify people who may or may not be working for the good of the group. Or violent acts may be committed to prevent others from entering a territory or to settle disputes.

The third law for successful TOC is state corruption. Some interface with state agents is necessary. Whether through police, customs, politicians or judges, criminal groups must find ways to corrupt government gatekeepers with bribes or some other form of coercion. The fourth law concerns internal cohesion. What binds the group together? Is it only profit-based? Or, is it more about a connection with the community? The fifth law for successful TOC is obtaining some community acquiescence. There must be some benefit to the community, or the organized crime group will face broad resistance to its operations. Understanding these laws can help strategists and national security professionals confront the challenges presented by TOC groups.

In the contemporary international security environment, it is important to make a distinction between low-intensity conflict (intrastate wars, civil wars, insurgencies) and

what might be described as high-intensity crime (such as the excessive violence practiced in Mexico or Central America and previously in post-Cold War Russia). One must ask, why is this sort of violence occurring? And one must make a sharp distinction between what is politically motivated and what is criminally motivated. Thus, if Clausewitz talks about war being an extension of politics, then for criminals, violence is an extension of the profit motive. Understanding that helps better frame the discussion for military professionals and policymakers.

Also worth considering is what I mentioned earlier; namely, that states such as North Korea and Russia employ crime as an instrument of state power. This is not organized crime alone; it is the state organizing crime under its auspices. Understanding the difference

If one accepts that organized crime is largely about illegal profits, then there is no strictly military strategy that can defeat the law of supply and demand.



between low-intensity conflict and high-intensity crime allows national security professionals to distinguish what is happening and how to build better policies, rather than look at all things as “war” or assume that the government is inherently on the side of law enforcement and the courts.

Recognizing these assumptions about how the world operates can help to properly shape and target available responses. This may mean moving out of a war paradigm and into a law-enforcement paradigm. For instance, there is a difference between a car bomb and a bomb in a car. Using a car bomb is a tactic that terrorists or insurgents would use to create maximum damage or increase the body count, whereas a bomb in a car specifically targets an individual. True, that might be part of an insurgent strategy — killing a police officer or killing a mayor. But for organized crime, it might be simply getting rid of a rival. How one examines these things affects how one responds.

It may seem that defeating or eliminating organized crime is just a pipe dream or a fairy tale that can never occur. All wars end, but crime does not. So, if one accepts that organized crime is largely about illegal profits, then there is no strictly military strategy that can defeat the law of supply and demand. One must approach the problem as a management issue rather

Spanish police carry confiscated material from a raid to break up a major Russian mafia gang in Calvia, on the island of Mallorca, Spain. The police accused 20 people of laundering proceeds from crimes that include contract killings and arms and drug trafficking.

than a problem that can be solved. And one must take care not to enact policies that may spur or create illicit markets and therefore generate instability. In applying sanctions, for instance, some may spur organized criminal activities by those trying to evade them. This is not to say that sanctions should never be imposed. But governments must find better ways to target them and how best to manage the consequences. That remains the great challenge. □

Dr. Paul Rexton Kan is a professor of national security studies at the U.S. Army War College. He is the author of the books *Cartels at War* and *Drug Trafficking and International Security* and of numerous articles on the intersection of illicit networks and contemporary forms of conflict. He was the senior visiting counternarcotics advisor to the International Security Assistance Force headquarters in Kabul, Afghanistan, and has briefed the U.S. Office of National Drug Control Policy.

This article has been adapted from the War Room “warcast,” a production of the U.S. Army War College at Carlisle Barracks, Pennsylvania. The views expressed are those of the author and do not necessarily reflect those of the U.S. Army War College, U.S. Army, the U.S. Department of Defense or the Marshall Center. To listen to the actual conversation, go to <https://warroom.armywarcollege.edu/podcasts/organized-crime-not-what-you-see-on-tv-a-warcast>



ISTOCK

M Following the Money

By **Joseph Wheatley**, trial attorney, Organized Crime and Gang Section, U.S. Department of Justice

AN INFORMAL GROUP OF FINANCIAL SLEUTHS IS CRITICAL TO FIGHTING TRANSNATIONAL CRIME

Transnational crime, including terrorist financing, money laundering and other offenses, tends to exploit the financial system, operate covertly, move quickly and show little regard for national borders. These and other factors often make transnational crime difficult to investigate and prove in court. To overcome these hurdles, countries need, among other things, swift access to financial information, robust capabilities to analyze that financial information, and the means to disseminate such financial information and analysis quickly to investigators and prosecutors within a country and across countries.

Financial intelligence units (FIUs), established by more than 150 countries around the world, help fill that need in the investigation and prosecution of transnational crime. These government agencies, among their various roles, support law enforcement authorities by receiving, analyzing and disseminating financial intelligence so that it may be used quickly and effectively in investigations and prosecutions. Further, FIUs assist their foreign counterparts through the Egmont Group, an informal network of FIUs.

WHAT IS AN FIU?

Broadly speaking, an FIU is a government agency that receives, analyzes and disseminates financial intelligence. The Financial Action Task Force, an intergovernmental policymaking body responsible for establishing policies to combat money laundering and terrorist financing, released international standards in 2012 that said an FIU is a “national centre for the receipt and analysis of: (a) suspicious transaction reports; and (b) other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis. The FIU should be able to obtain additional information from reporting entities, and should have access on a timely basis to the financial, administrative and law enforcement information that it requires to undertake its functions properly.”

FIUs receive, analyze and disseminate the kinds of financial intelligence described below. FIUs follow four organizational models: judicial, law enforcement, administrative and a hybrid that combines aspects of the three other models.

THE EGMONT GROUP

Founded in 1995 at the Egmont Arenberg Palace in Brussels, Belgium, the Egmont Group (www.egmontgroup.org) is an informal network of FIUs drawn from more than 150 member states. The group serves as a forum and platform for FIUs to cooperate on a variety of issues. Just as an FIU may assist law enforcement authorities in its own country, FIUs working with other FIUs through the Egmont Group may assist law enforcement authorities in other countries that are investigating terrorist



Then-Dutch Finance Minister Jeroen Dijsselbloem, right, speaks with a member of his delegation during a 2015 meeting of EU finance ministers in Brussels to discuss ways to better track financial transfers, control prepaid bank cards, freeze assets and limit the movement of cash and precious metals. EPA

financing, money laundering and other offenses.

The Egmont Group provides support to FIUs in a number of ways, including formalizing and expanding the exchange of financial intelligence, training and expertise, and secure communication facilities between FIUs. The group is open to applications from FIUs interested in joining.

FINANCIAL INTELLIGENCE

There is no single definition for the financial intelligence that FIUs receive, analyze and disseminate. However, financial intelligence tends to encompass the following two categories of records that are generated by reporting entities, namely financial institutions, including banks, money transmitters and casinos:

- 1. Declarations/disclosures that are based on a threshold reporting level.**
This includes cash transaction reports, also

known as currency transaction reports, and wire transfer reports. Such declarations/disclosures must be filed by reporting entities for each transaction that crosses a specified threshold or appears to be structured to avoid the threshold reporting requirement. For instance, in the United States, financial institutions are required to file a currency transaction report for transactions above \$10,000, or for those that appear to be structured to avoid the reporting requirement, such as when a person deposits \$9,999 on multiple occasions.

- 2. Suspicious transaction reports, also known as suspicious activity reports.**
Suspicious reports are treated as confidential and may not be disclosed outside of FIU and law enforcement authorities. Unlike the declarations/disclosures described above, suspicious transaction

reports are not based on a threshold reporting level. Regardless of the size of the transaction, reporting entities are obliged to file suspicious transaction reports when they observe financial behavior that may reflect criminal activity. For instance, transactions that are outside a bank customer's normal pattern or serve no obvious economic or business purpose may reflect money laundering and cause the bank to file a suspicious transaction report.

THREE IMPORTANT TOOLS

The financial intelligence described above is analyzed and disseminated by FIUs, which train reporting entities and can help with investigations and prosecutions of transnational crime in three important ways: investigate leads, freeze or suspend transactions, and provide evidence in legal proceedings.

In the first instance, financial intelligence can help identify leads such as names, dates, locations and account numbers. For instance, consider this hypothetical scenario: In Country A, Customer X has a consumer bank account at Bank X. When Customer X applied to open the account in early 2018, he provided information about himself, including his annual income of \$30,000. He has had the bank account for two months. Over one month, Customer X received 20 wire transfers of \$5,000 each. The wire transfers came from a single U.S. bank account at Bank Y. That totals \$100,000 in one month, from one originating account.

This behavior may strike the bank as suspicious because the total of the wire transfers far exceeded Customer X's reported income, each transfer was beneath the \$10,000 reporting threshold, and Customer X has had the account for only two months but has already received \$100,000 in wire transfers.

Such irregular behavior may cause Bank X to file a suspicious transaction report about Customer X. Although the suspicious transaction report would remain confidential, as required, the report may be used as an investigative lead to obtain potentially admissible evidence, including the underlying records that caused the bank to file the suspicious transaction report. For instance, investigators could interview Customer X, obtain the records for Customer X's account and the records for the account where the wire transfers originated at Bank Y, and interview the account holder of that originating account.

Such evidence, discovered using a suspicious transaction report as an investigative lead, could later be used with other evidence to prove



criminal offenses, including money laundering and fraud. For instance, records from the originating and destination bank accounts may show that Customer X controlled both and could help prove that he artificially inflated business expenses by sending money to himself and structured the transactions to avoid the \$10,000 reporting requirement. Again, while the suspicious transaction report itself remains confidential, it may steer investigators and prosecutors toward helpful evidence that may be used in legal proceedings, including the records that triggered the suspicious transaction report.



Maltans set up a clothesline in Ta'Xbiex, Malta, in November 2018 to protest alleged money laundering by Pilatus Bank. REUTERS

A 33-year-old Iraqi known as Abu Walaa, accused of recruiting fighters for the Islamic State in Syria, arrives in a courtroom in Celle, Germany, in September 2017. AFP/GETTY IMAGES



In an example cited by the Egmont Group in 2014, the Serbian FIU found tax evasion by Serbian residents who used wire transfers through multiple countries to distance themselves from the original source of the funds. The Serbian FIU uncovered this tax evasion by reviewing suspicious transaction reports submitted by a Serbian bank and by working with other Egmont Group FIUs, including those in Malta, the Philippines and the U.S., to trace the suspicious transactions across those countries. The Serbian FIU then reported this information



to a law enforcement authority, the Serbian Tax Administration, which concluded that the Serbian residents committed tax evasion; the residents had to pay \$344,000 in restitution.

In another example cited by the Egmont Group in 2014, the U.S. FIU assisted federal agencies, including Homeland Security and the U.S. Army's Criminal Investigation Command (CID), with the investigation of Efraim Diveroli and others for fraud against the U.S. government involving the sale of prohibited military munitions. The assistance provided by the U.S. FIU to the CID and other investigative agencies included the sharing of suspicious transaction reports, research and analysis. It helped bring the investigation to a successful conclusion and prevented the sale of prohibited ammunition and a loss of tax dollars. In 2011, Diveroli was sentenced to four years in prison; his co-defendants were also convicted.

In an example cited by the Egmont Group in its 2015-2016 annual report, the Israeli FIU

uncovered a sophisticated money-laundering operation that used false documents, diamond imports/exports and wire transfers to launder hundreds of millions of dollars. The Israeli FIU discovered the fraud by observing a surge in suspicious transaction reports from the financial industry between 2007 and 2009, and by working with other Egmont Group FIUs, including those in Belgium, Hong Kong, Thailand, the United Kingdom and the U.S., to help identify companies, accounts and transactions involved in the money laundering. This financial intelligence aided an investigation by Israeli law enforcement authorities, including the prosecutors and the police, which charged 15 entities in 10 indictments.

The second important way in which financial intelligence can be helpful involves the freezing or suspending of financial transactions. In 2009, the Egmont Group found that 54 percent of FIUs have the authority to take that action. By freezing or suspending transactions, countries

A Belgian court sentences Raymond Monstrey, director of diamond courier Monstrey World Services, in 2016 to four years in prison for fraudulent operations that included charges of forgery, tax fraud and money laundering.

AFP/GETTY IMAGES



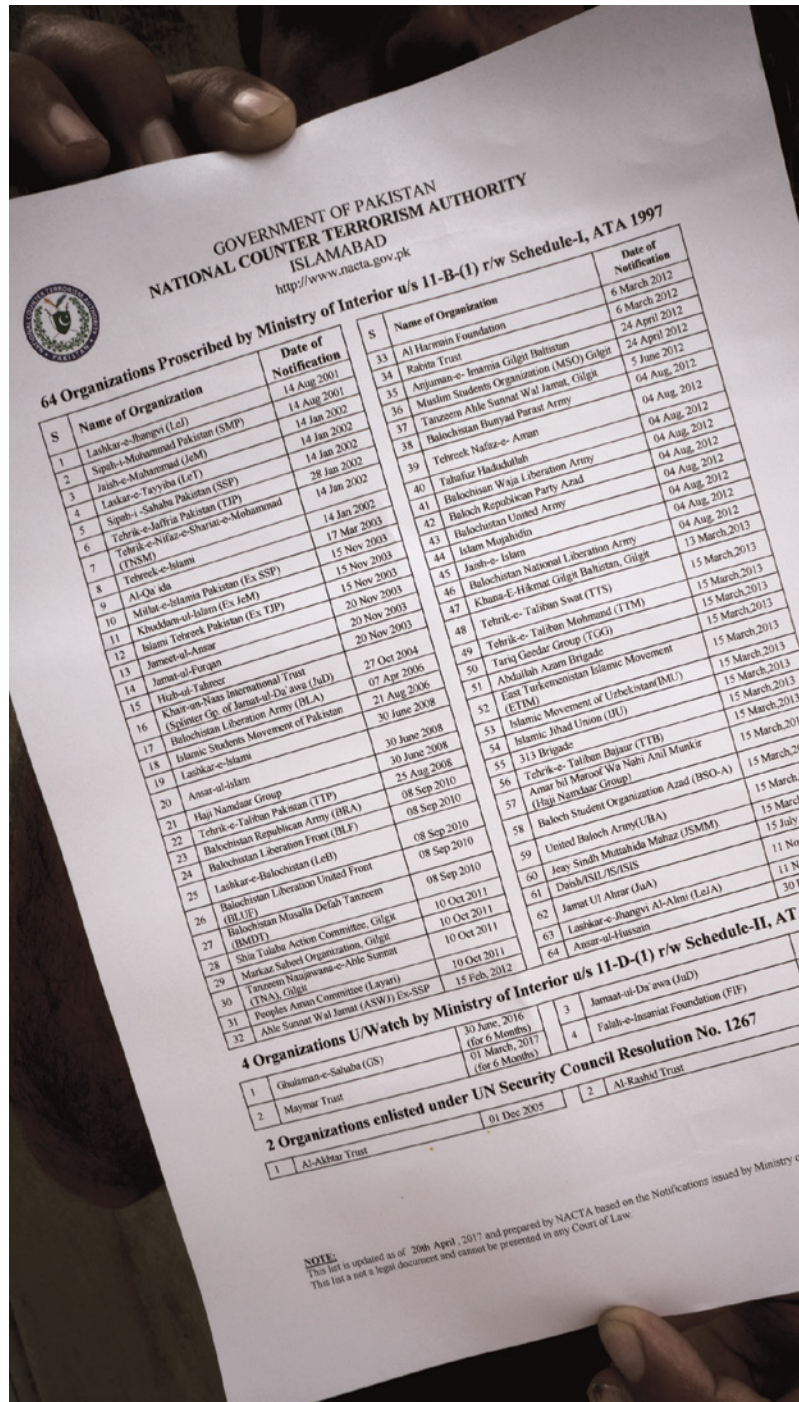
FIUs, THE EGMONT GROUP, AND FINANCIAL INTELLIGENCE PLAY AN IMPORTANT ROLE IN THE INVESTIGATION AND PROSECUTION OF TRANSNATIONAL CRIME.

may prevent suspected wrongdoers from hiding or disposing of their assets before formal charges are filed. Likewise, these powers may be used to implement international sanctions.

Using financial intelligence as evidence in a legal proceeding is a third way it can be helpful. As described above, one type of financial intelligence, suspicious transaction reports, are confidential and may not be disclosed publicly. However, when permitted, a second type of financial intelligence, declarations/disclosures that are based on a threshold reporting level, may be used as evidence in legal proceedings. For instance, in a 2006 press release, the U.S. FIU reported that currency transaction reports, which are based on threshold reporting requirements, were used in the prosecution and conviction of a drug-trafficking organization, which used casinos to launder drug proceeds.

CONCLUSION

FIUs, the Egmont Group, and financial intelligence play an important role in the investigation and prosecution of transnational crime. By analyzing and disseminating financial intelligence, namely suspicious transaction reports and declarations/disclosures based on threshold reporting requirements, FIUs may assist investigations and prosecutions, including the three ways discussed in this article: investigative leads, freezing or suspending transactions, and providing potentially admissible evidence in legal proceedings. This assistance may occur



within a given country or between FIUs through the Egmont Group. Only through cooperation within and among countries can law enforcement agencies address the pressing problem of transnational crime. □

As a U.S. Department of Justice trial attorney, Joseph Wheatley has prosecuted large and sophisticated criminal organizations, including MS-13, the Italian-American Mafia, transnational armed robbery groups, Eurasian organized crime, and the Vice Lords. He graduated from Princeton University and from the University of Pennsylvania Law School, where he served as senior editor of the *Journal of International Economic Law*, and co-founded the *Journal of International Law and Policy*, now the *Journal of International Law*.

A Pakistani official in Islamabad shows a National Counter Terrorism Authority list of banned organizations. In 2017, Pakistan froze the accounts of 5,000 suspected terrorists, taking roughly \$3 million out of their pockets.

THE ASSOCIATED PRESS



PER CONCORDIAM ILLUSTRATION

Social Media

INTELLIGENCE

Using Facebook, Twitter and other sites to combat organized crime

By Tudoriu Constantin-Sorin | Photos by The Associated Press

The international security environment has responded to the rapid development of the internet and mobile communications technology by developing a new intelligence domain — social media intelligence (SOCMINT). After the 2011 London riots, Sir David Omand, former director of the United Kingdom’s Government Communications Headquarters, developed this new domain and defined it as a set of applications, techniques and capabilities obtained through the collection and use of social media.

In a 2005 video, Mark Zuckerberg described his goal for the social media platform that was to become Facebook as “[not] to make an online community, but sort of like a mirror for the real community that existed in real life.” By 2018, social media platforms, along with the entire digital ecosystem, had outgrown this description.

OPPORTUNITIES AND LIMITATIONS

SOCMINT differs from open source intelligence (OSINT), which is produced from publicly available sources such as traditional media (newspapers, radio, television, etc.), public data (government reports, official data, etc.), web communities and personal reports. SOCMINT is the process of identifying, collecting, validating and analyzing data from social media sites and accounts using non-intrusive and/or intrusive methods to develop intelligence that reduces the unknown in the decision process. For law enforcement agencies, intelligence services and justice/legal institutions, SOCMINT provides real-time information on ongoing events filtered from the internet noise, making it useful for monitoring the processes of criminal acts, collecting evidence and predicting future events.

Social media has created the opportunity for interaction,

without frontiers, between criminal structures and vulnerable individuals, and changed the paradigm for organized crime. There has been a shift from *omerta* (the Sicilian Mafia code of silence) to “cyber banging,” defined by the Global Initiative Against Transnational Organized Crime as “exhibiting criminal power, recruiting members, or even acting directly against their enemies on social networks” because the code of silence was replaced by promoting or bragging about criminal services through social media platforms. Similar to how jihadists use the internet for conversion and recruitment, criminal groups recruit new members using social media platforms by promoting the luxury lifestyle, the gang’s reputation and money.

In 2014, the website espresso.repubblica.it published a profile of the social network of Cosa Nostra scion Domenico Palazzotto, the Mafia boss of the Arenella district in Sicily. The article was titled “Mafia, the life on Facebook of the young godfather between selfies, limousines, luxury and insults to the police.” It exposed the “values” of Sicily’s new generation of criminal bosses. Palazzotto’s Facebook page is a mix of ostentatious luxury and continuous bluster.

Members of Mexico’s drug cartels have also been harnessing the power of the internet to run positive public relations campaigns, post selfies with their gold-plated assault rifles, scantily clad women and fast cars, and to “hunt down targets by tracking their movements on social media,” according to a 2013 report on *Vice* magazine’s website. Social media is empowering criminals and rewiring relations with potential new members or buyers. The Knights Templar (Caballeros Templarios, in Spanish) used to run a Facebook page under the pretense of being a small business, according to *Vice*.



In 2005, law enforcement began detecting the online sharing by cartels of *narcomensajes* — short messages about the reasons for a killing — which later became narco videos used for propaganda. Some of the world’s most ruthless drug cartels are voracious users of various digital platforms. The Sinaloa cartel, one of Mexico’s most powerful crime groups, has a Twitter account (@carteidsinaloa) with 84,000 followers. A Twitter feed using the nickname of the cartel’s now-jailed leader Joaquín “El Chapo” Guzman (@elchapoguzman) has 590,000 followers.

According to the Global Initiative, the “Twitter accounts of presumed Mexican drug traffickers have recently attracted the attention of international media as they give the opportunity to take a look at the lifestyles of the so-called ‘narcojuniors,’ the second generation of drug traffickers that have inherited the leadership of large criminal organizations.” El Chapo’s sons use multiple Twitter accounts, which, contrary to the generally low profile maintained by their father, engage in cyber bashing and feature pictures of luxurious parties, women, exotic animals, cash and guns. Social media has provided organized crime groups with business and public relations opportunities and a quick way to communicate with members or potential buyers. From the Japanese Yakuza creating its own website to the cyber bashing of next-generation Mexican cartel and Sicilian Mafia leaders, today’s transnational organized crime (TOC) groups are visible on the internet and on social platforms because the users want to be known.

The difference between OSINT and SOCMINT is the difference between open source *exploration* and social media *exploitation*; it’s the difference between *public* and *private*. For SOCMINT, there is debate over when it is legal or appropriate for agencies to use intrusive methods to collect information by entering the private space of individuals. To resolve the question of intrusive methods, Omand and his team established six principles to create a legal framework for the use of intrusive SOCMINT. According to an article by the British think tank Demos and co-authored by Omand, the “laws of war” for ethics in intelligence operations are: 1) there must be sufficient and sustainable cause; 2) there must be integrity of motive; 3) the methods used must be proportionate and neces-

sary; 4) there must be the right authority, validated by external oversight; 5) recourse to secret intelligence must be a last resort if more open sources can be used; and 6) there must be a reasonable prospect of success.

Security agents guard a gate to the attorney general’s office for organized crime as a convoy arrives carrying Damaso Lopez, nicknamed “El Licenciado,” in Mexico City in 2017. Mexican prosecutors captured Lopez, one of the Sinaloa cartel leaders, after the arrest of Joaquín “El Chapo” Guzman.

SOCMINT uses the intelligence cycle — from planning and direction to collecting, processing and analyzing data — to produce the intelligence and disseminate it to the end users, who then use the information to plan and direct future intelligence gathering.

BEYOND THE CONVENTIONAL

The transition from an industrial society to an information society means that organized crime networks no longer exploit only the countries in which they originated; the networks have become extensions of the new, globalized world. TOC’s exploitation of digital technology to enhance the efficiency and effectiveness of their operations can be compared to how youth behavior has changed with the expansion of the internet. When launched, Facebook, Twitter and Instagram planned to unite people, making geographic distance unimportant.



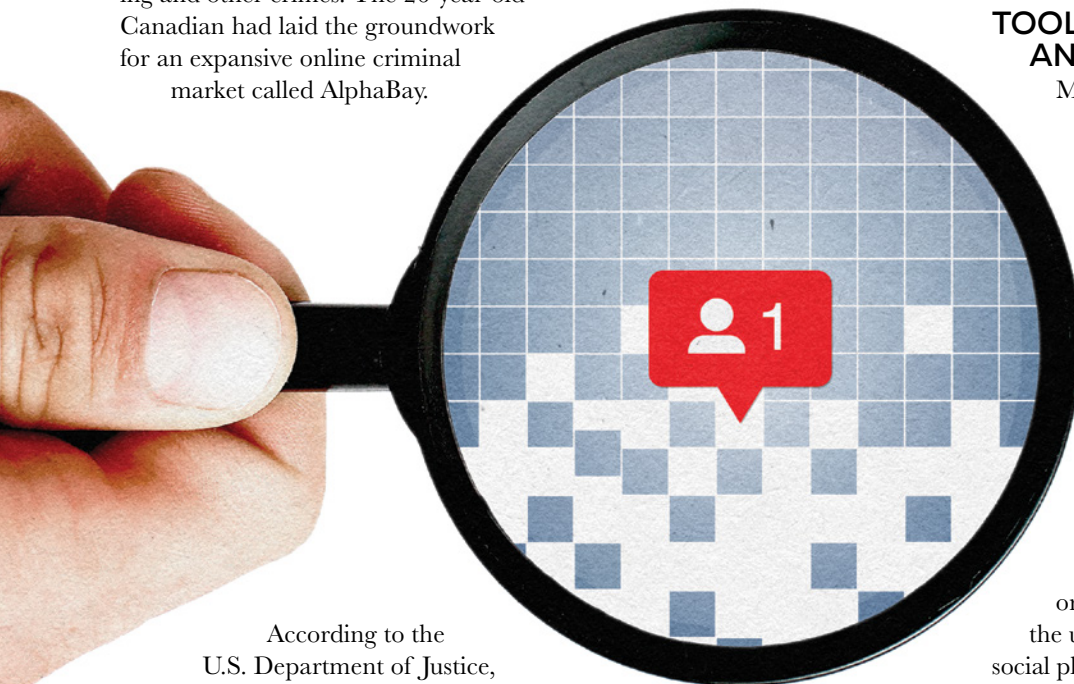
These bitcoin tokens were seized in Utah after U.S. prosecutors charged two men with conspiring to commit money laundering by selling more than \$1 million in bitcoins to users of the black-market website Silk Road, which lets users buy illegal drugs anonymously.

But like a double-edged sword, they also managed to provide fertile ground for the promotion of violence. For example, the number of online games, many depicting graphic violence, has grown exponentially over the past 10 to 15 years, and YouTube is rife with channels extolling violence. In addition, in modern, digitalized society, individualism, relativism and instability make people more dependent and vulnerable, increasing their need for information to understand what they see online and what is happening around them. SOCMINT (which is able to identify online opinion) can play an important role against crime, particularly organized crime. Social media can be used in the fight against TOC but also can encourage aggressive behavior. This encouragement is known as a “primer effect,” a concept theorized by American social psychologist Leonard Berkowitz, among others, whereby people’s observations of crime lead them to think along similar lines and make comparable judgments, predisposing them to violence in interpersonal situations.

Which is the faster way to look for something: Go to the library? Or search the internet? Of course, nowadays a simple search of Facebook, Twitter, Instagram or the dark web returns a lot of information, including offers from TOC

groups that have set up shop on the internet. Let's compare the case of the Silk Road — perhaps the most well-known place online for anyone who wanted to purchase all sorts of illegal goods, ranging from illicit drugs to firearms, or even hitmen for hire — to the AlphaBay/Hansa Market case to see how intelligence can operate online.

Authorities took down Silk Road in 2013, but it was replaced almost immediately by new online marketplaces such as Silk Road 2, Agora and Evolution, where criminal vendors and buyers quickly resumed selling and buying illegal commodities. On behalf of the United States government, in 2017 Thai police arrested Alexandre Cazes in Bangkok on charges of narcotics distribution, identity theft, money laundering and other crimes. The 26-year-old Canadian had laid the groundwork for an expansive online criminal market called AlphaBay.



According to the U.S. Department of Justice, AlphaBay reached over 200,000 users, had 40,000 vendors for more than 250,000 listings for illegal drugs and toxic chemicals, and more than 100,000 listings for stolen and fraudulent identification documents and access devices, counterfeit goods, malware and other computer hacking tools, firearms and fraudulent services.

About the AlphaBay operation, Robert Wainwright, the executive director of Europol, said: “This can be frustrating, and we and our partners therefore decided to strategically exploit this criminal behavior by acting against two top markets in a coordinated strike to maximize disruptive impact.” In the meantime, Dutch authorities, with the cooperation of international law enforcement, covertly seized the servers of Hansa Market, another large illicit darknet site. Instead of shutting down the site, Dutch police continued to run it covertly while monitoring the traffic. When AlphaBay was shut down, investigators saw an eightfold increase of users and, in a few weeks, collected information on high-value targets and delivery addresses for a large number of orders, which helped in other investigations.

Unlike Silk Road, in the AlphaBay/Hansa Market case, law enforcement used intrusive online measures: going undercover by posing as criminals such as arms dealers in criminal forums, mining sites to reveal the identities of criminals who visit, tracking financial transactions, as well as traditional measures to track and physically prohibit the delivery of illicit goods such as drugs and weapons. About the successful operation, Europol’s Wainwright said, “Addressing cyber crime and the use of information technology platforms for criminal purposes has become an important policing priority across the EU. The recent takedown in July 2017 of AlphaBay and Hansa, two of the largest darknet markets, is an example of how law enforcement can intervene to disrupt this environment.”

TOOLS, METHODS AND TECHNIQUES

Monitoring, analyzing and extracting social networking data from TOC groups can provide valuable information about sites visited and used, reveal patterns to help understand complex relationships hidden in massive amounts of data, and detect fraud, transactions, and the scale and goals of criminal networks.

Avatars or fictitious accounts that are difficult or impossible to associate with the user are frequently used on social platforms by organized crime members. But by using intrusive measures like infiltration of accounts and fake identification, law enforcement can run online operations against criminal organizations. “Social media monitoring started in the world of marketing, allowing companies to track what people were saying about their brands, but with software that allows users to scan huge volumes of public postings on social media, police are starting to embrace it as well,” National Public Radio said in an article about social media tools.

SOCMINT is the process of collecting and analyzing data gathered from across multiple social media sites and channels to understand users, identify influencers, monitor online conversations, mine customer sentiment and predict consumer behavior, among other purposes. To go beyond merely “listening,” SOCMINT has myriad tools (because every social media platform and channel have unique features) that can be used in the intelligence analytical processes. Finding a person and mapping his or her online footprint is often used to establish the extent of a social media profile. Specialized software can create a



Chilean journalists in Santiago, Chile, protest the murder of Mexican journalist Javier Valdez, who wrote about drug trafficking and organized crime. He was slain in the northern state of Sinaloa, Mexico, long a hotbed of drug cartel activity.

profile from someone's presence on social media sites such as Facebook, Twitter, LinkedIn, Google+, YouTube and Instagram. Other tools can find and validate mail addresses, trace email and analyze traffic analysis or conduct screen-name investigations. There are tools, tool-kits and apps to investigate websites.

SOCMINT was created to monitor "social media risk" after the riots in London and to detect trouble. Meanwhile, working with social media companies has opened new opportunities to law enforcement to geolocate and monitor users or content. Geolocating is an essential SOCMINT tool because members of criminal groups are often unaware of the functionalities of the applications they use and make mistakes. Based on observations and various studies, about half of the members of organized crime groups fail to disable geolocation for Twitter and Facebook postings, allowing online activity to be linked to a specific place, which in some cases is a prison from where a leader gives orders. Specific to TOC is a traditional hierarchy that, regardless of the form — in real life or on a digital network — contributes to maintaining loyalty. For SOCMINT, this hierarchy is an opportunity to identify and analyze how influence, respect or loyalty is represented online.

This relationship analysis uses SOCMINT tools such as Maltego, SocioSpyder, Visallo, Gephi and Ucinet to

query public or private data sources to make sense of data and measure a person's relationships within the network. To understand behavior and determine influencers, law enforcement also mines blogging platforms for intelligence, infiltrates accounts through covert operations and works with visual blogs such as Instagram, SnapChat, Pinterest and Tumblr.

CONCLUSION

Globalization, the explosion of communications channels and the need to target new and richer markets brought about two major changes in TOC: criminal groups became more international, with cross-border crimes becoming increasingly frequent; and the groups have gradually shifted to a more businesslike approach, one vector of change being social media. TOC networks have turned to social media where dialogue is fast, effective, anonymous and encrypted, and as a result, law enforcement must deal with narco-tweeters, cyber banging, cyber crime, human traffickers on the darknet and more.

Most TOC members are young and inexperienced, but have seen the benefits of social media, which is pervasive and impacts every aspect of modern life. Even if they do not directly use social media, organized crime groups are integrated into communities that share information about criminal activity online, which can be captured, analyzed and transformed into actionable intelligence by SOCMINT. For these reasons, SOCMINT must be seen as an opportunity for law enforcement to manage information in an increasingly intense online environment and a tool for planning operations that would be difficult to mount otherwise. □



HITTING THEM WHERE IT HURTS



Interrupting the Money Flow Can Paralyze Terror Groups

By Ivica Simonovski, Ph.D.,
Financial Intelligence Office
of the Republic of North Macedonia

Photos by The Associated Press

One of the key elements in the fight against terrorism is tackling the financing. Identifying and cutting off financial flows will reduce the capacity of terrorist groups to carry out attacks, increase their operating costs, and bring risk and uncertainty to their operations. In such circumstances, they will often take actions that expose their operations. Therefore, the fight against terrorism financing should be extensive and include every affected stakeholder in a society.

Money is a prerequisite for the realization of all terrorist activities and is often described as an “energy source” or a “bloodstream” of terror organizations. Funds are needed for the development of an organizational infrastructure, recruitment, propaganda, training, planning and for executing attacks. This explains the need for long-term and stable sources of funding. Terrorist organizations often obtain funds by engaging in legal and illegal activities where they operate. The funding schemes can be short term and long term and are typically supported by international backers and by countries that sponsor terrorist organizations. Funds can be generated in areas the terrorists control, from internal and external sources and from legal and illegal activities. Terrorist organizations also need weapons, ammunition and technical equipment, which usually cannot be manufactured or purchased in the territory they control. The procurement of such resources requires complex schemes involving many individuals, including

collaborators who support the process. Terrorists often employ intermediaries, known as “money mules,” who use phony accounts to procure these necessary resources.

The problem gets more complex when trying to trace how these resources enter a territory controlled by a terrorist organization. The Islamic State, also known as Daesh, provides a good example of how difficult it can be to track these resources. The organization declared a caliphate in parts of Iraq and Syria. The territory is rich in oil, so one of Daesh’s main sources of stable and long-term funding was from the sale of oil. These funds were used to pay members and to buy uniforms, weapons, ammunition and other needs. The money raises many questions that require in-depth research to answer. How was the oil sold? Was it sold within Daesh-controlled territory or was it exported? Who bought the oil and how was the money transferred? How were weapons purchased and from whom? How were the weapons transported? And what were the main routes for these activities? The answers to these questions, complemented by the monitoring of cash flows, can help in developing a strategic analysis that can provide a set of measures and actions that need to be taken at the national, regional and global levels to successfully counter terror financing.

Monitoring the money flow presents another problem. Large amounts of money are needed to fund terrorist activities, especially weapons purchases. The financial system in the area controlled by Daesh was not functional, so it is assumed that the financial systems in neighboring territories and states were used. In this respect, the increased frequency of transactions from/to financial institutions should be subjected to an in-depth analysis by the departments responsible for preventing money laundering and terror financing. There is a need for a strategic and tactical analysis that can result in a set of measures to help identify suspicious activities.

The fight against terror is adjusting to the new arrivals on the scene: terror cells, foreign fighters and lone wolves. Unlike terrorist organizations, these new actors can have different goals and a different phenomenology. Consequently, their needs for financial resources are different. These actors are decentralized and act independently in all stages, including the financing of their activities. As an illustration, 57 percent of jihadist cells that have carried out terrorist attacks in Europe in the past 15 years have funded their

Through a secure portal, Europol and other financial intelligence units can exchange information vital to tracking terror financing.





activities, including the execution of attacks, from legal sources such as salaries, savings, loans, family help, personal funds and even their own businesses. This type of financing does not cause suspicion among the financial and nonfinancial institutions that are required to report suspected terror financing and money laundering.

These institutions are obligated by law to implement a customer due-diligence procedure and identify suspicious or unusual transactions and clients. If they identify such transactions and clients, they are obliged to submit data to a financial intelligence unit (FIU) for analysis. Here, the client identification procedure is particularly important. It is implemented before a business relationship is established to obtain the potential client's financial status, intentions, location and criminal past — generally, the risk a financial institution could incur if it does business with the applicant.

The establishment of a system to prevent money laundering and terror financing is crucial in identifying the financial flows that fund terrorism. As mentioned, a large percentage of the financing of jihadist terror cells has been through legal sources. Consequently, questions arise about the steps financial

institutions have taken to prevent money laundering and terror financing, and whether they have identified suspicious or unusual transactions and notified an FIU.

Core functions

The definition of an FIU — adopted in 1996 by the Egmont Group, a network of FIUs — formalized three core functions: the receiving, analyzing and disseminating of information, data and documents about money laundering, terror financing and other criminal offenses that generate proceeds. According to the definition, an FIU is a “central, national agency responsible for receiving, (and as permitted, requesting), analyzing and disseminating to the competent authorities, disclosures of financial information: (i) concerning suspected proceeds of crime and potential financing of terrorism, or (ii) required by national legislation or regulation, in order to combat money laundering and terrorism financing.” This includes the revised Financial Action Task Force (FATF) recommendations of 2003. According to Recommendation 26, “Countries should establish a FIU that serves as a national centre for the receiving (and, as permitted, requesting), analysis and dissemination of STR [suspicious transaction report] and

A memorial in front of the Bataclan concert hall in Paris during a 2017 ceremony marks the second anniversary of France's deadliest terror attack.

other information regarding potential money laundering or terrorist financing.” The three core functions of the FIU are also mentioned in international conventions (the Palermo Convention and United Nations Convention against Corruption). Initially, the three core functions of the FIU were focused only on money laundering. But the revised FATF recommendations of 2003 expanded FIU functions to preventing terror financing. With the revised FATF recommendations of 2012, the functions were further expanded to include other predicate offenses that generate proceeds.

Analyzing suspicious transactions

By definition, the FIU is the central agency in the system for preventing money laundering and terror financing. After receiving and analyzing data on suspicious transactions and activities, the information is disseminated to the relevant authorities for further investigation. The FIU may receive suspicious transaction reports from the obligated entities, from data provided by other FIUs, or from data generated by other state bodies.

The number of reports can vary, and the volume may be too large for an FIU to analyze in a timely manner. In that case, the FIU can prioritize the reports based on the degree of their suspicion. The reports that are not analyzed can be stored in a database that can provide strategic analysis or be linked to previous cases. The analytical work is a core function of almost all FIUs. For successful analytical work, the FIU should have access to a variety of databases and information sources.

The analysis carried out by the FIU can be tactical and strategic.

Tactical analysis

The tactical analysis of an STR is closely related to the quantity and quality of the collected data. Therefore, the FIU should have timely access to the data. An analyst searches for a connection between suspicious transactions, people involved in the deal, criminal groups or terrorist organizations, and predicate crimes. Knowledge, access to relevant databases, and access to publicly available information are required to process the STR. Necessary databases include:

- **FIU’s database**

As previously mentioned, the obligated entities must submit STRs, transactions over 15,000 euros and related transactions in the amount of 15,000 euros and more. The FIU’s internal database includes all data and requests submitted by competent authorities and foreign FIUs. In addition, a country’s customs administration is obliged to report to the FIU the entering and exiting of money or physically transferable assets for payment over 10,000 euros. The data, as well as data from previous analyses, should be stored in the FIU’s internal database.

- **Databases of state institutions**

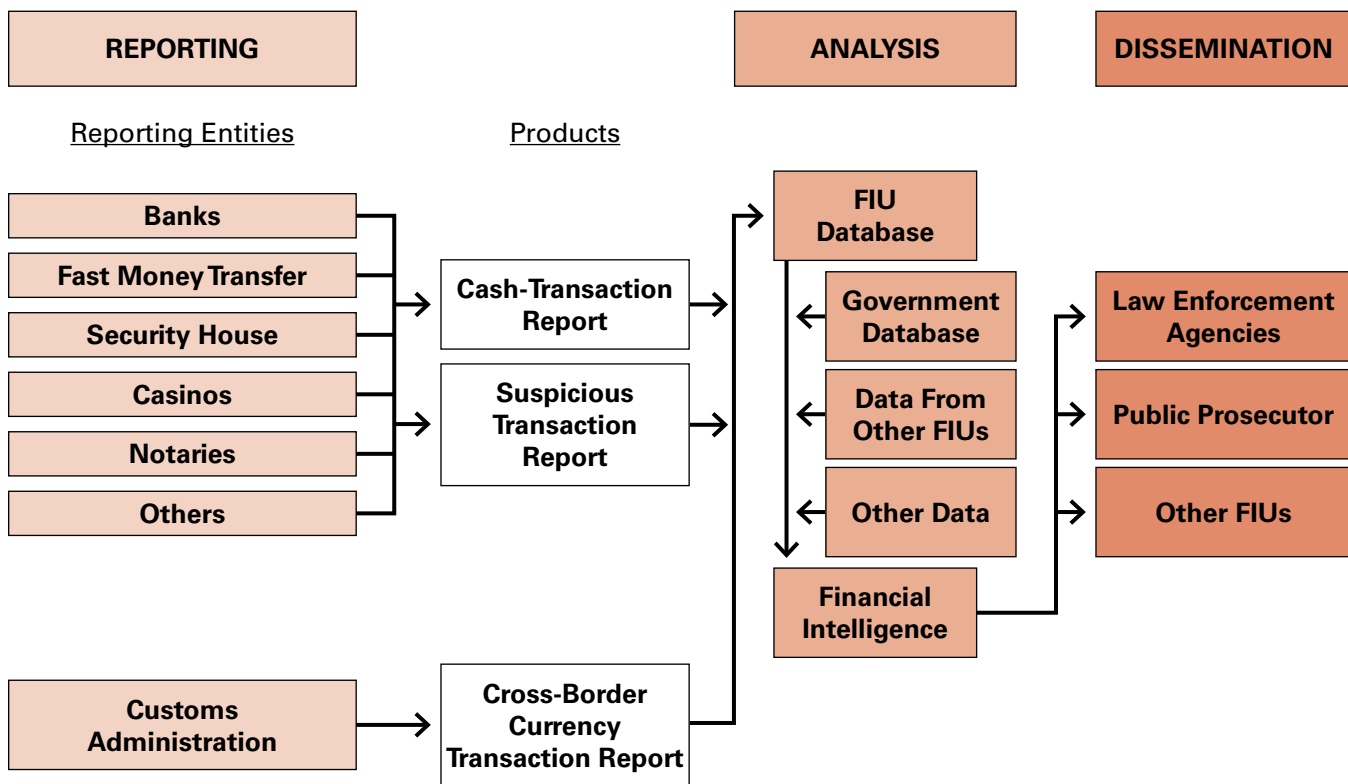
The dynamics and speed of money laundering and terror financing require timely detection and prevention. The FIU needs direct and quick access to databases of other relevant institutions through which it will provide quality and necessary data. For that purpose, the FIU should have electronic access to databases that will be regulated by law or a memorandum between the FIU and other institutions. Any changes in the databases should be delivered in real time to the FIU via web services and an interoperability system. Generally, FIUs need electronic access to these databases:

- Criminal records
- Birth certificates
- Motor vehicles
- Watercraft
- Aircraft
- Bank accounts
- Employment
- Real estate
- Businesses
- Taxes
- Securities
- Others as needed for financial analysis

A woman looks at British artist John Keane's painting *Bound* during a preview for the *Age of Terror: Art Since 9/11* exhibition at the Imperial War Museum in London in 2017. Without financing, many attacks could not happen.



FIU Information Flow



Source: Ivica Simonovski, Ph.D.

• Publicly available databases

Access to publicly available databases, media web portals or social networks is generally free, but others require payment. The most commonly used include:

- World Check
- Data from public media
- Data from internet and social networks
- Dow Jones
- Lists of terrorists and terrorist organizations (United Nations, European Union, Office of Foreign Assets Control)
- Dun & Bradstreet

All of the above are necessary for a timely and expert financial analysis. The data is used to profile people, determine their work history, how they acquired their material possessions, the basis and logic for the financial transactions they carry out, whether the transactions are suspicious, and whether to monitor future activities. The outcome of the financial analysis should either dispel any suspicion or result in the dissemination of data to investigating authorities for further analysis.

Strategic analysis

Apart from the tactical analysis of the finances of a money laundering or terror financing case, a strategic analysis focuses on determining whether an event happened or will happen during a certain period. Strategic analysis will help the FIU prepare strategic plans for future work and focus, i.e., whether certain customers, geographical areas, sectors, products and activities should be subject to further analysis and appropriate measures and actions to overcome, eliminate or prevent them. To that end, all available FIU data are used.

Strategic analysis can help identify an increase or reduction of transactions from and to risky regions and countries where terrorists operate or where armed conflicts are occurring, and from and to the regions and states around them. An example of a strategic analysis can be the increased frequency of transactions from and to border towns on the Turkish-Syrian border (Diyarbakir, Gaziantep, Adana, etc.). The object of the analysis will be to determine the cause and frequency of transactions, the sector used (bank, money transfer providers), the customers and end users of the funds, and their possible connection with

terrorist activities. The strategic analysis should produce the information needed for financial institutions and state authorities to determine the ultimate purpose of transactions from and to that region. Based on the analysis, the region can be designated as “high risk” and a ban placed on transfers from and to the region.

Dissemination of reports

The timely dissemination of a financial analysis of suspicious transactions and activities is crucial when attempting to prevent money laundering and terror financing. Success depends on the FIU’s ability to quickly analyze and disseminate data to the competent authorities on a national level, as well as to send information to foreign FIUs.

countries. The legal basis for this cooperation is found in bilateral or multilateral agreements or in memoranda of cooperation. International cooperation between FIUs can be based on a request or response or be generated from information shared spontaneously.

During a financial analysis, an FIU may need to submit a data request to another FIU. The exchange is done in accordance with standards established by the Egmont Group and through a secure website it developed. This direct line is also used for exchanging statistics, typologies, practical cases, training and workshops. In the EU, a decentralized and sophisticated computer network known as FIU.net has been established to support FIUs. Through a secure channel, FIUs, including Europol, can exchange data.

Freezing suspicious transactions

With the proper policies in place, money laundering and terror financing can be prevented in the early stages, i.e., when the proceeds of crime or the funds for financing terrorism enter the financial sector. At this stage, financial institutions should have the appropriate legal capacity to recognize suspicious transactions and suspend them. An FIU has no power to directly block funds. According to the Strasbourg and Palermo conventions and the International Convention for the Suppression of the Financing of Terrorism, countries should adopt legislative and other measures to enable the timely postponing and freezing of suspicious transactions, with an obligation to conduct an analysis and confirm the suspicion. FATF Recommendation 4 states that “countries should adopt appropriate legislative measures that will allow proceeds of crime to be confiscated.”

Recognizing suspicious transactions is a complex matter. Private sector financial institutions have a choice of carrying out or suspending any transaction. If they suspend a transaction, there is the possibility of losing a customer and the profit, but if they carry out the transaction, they risk being involved in money laundering or terror financing.

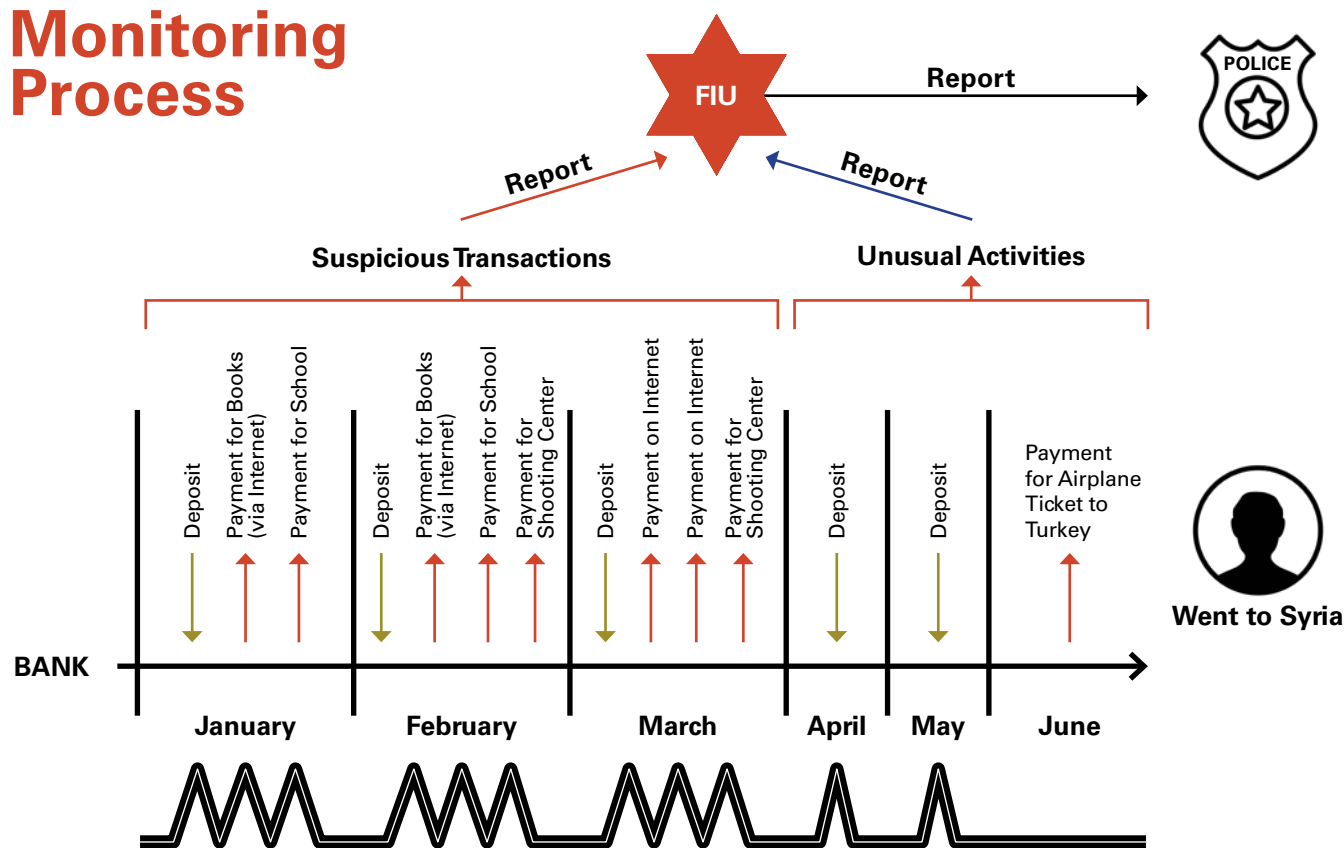
At this stage, cooperation between the FIU and financial institutions is extremely important. An FIU can produce indicators for recognizing suspicious transactions. A transaction can be suspended after a suspicious transaction report is submitted to the FIU. If the FIU determines that carrying out the transaction appears to be money laundering or terror financing, the FIU can submit a request to the

Money is a prerequisite for the realization of all terrorist activities and is often described as an “energy source” or a “bloodstream” of terror organizations. Funds are needed for the development of an organizational infrastructure, recruitment, propaganda, training, planning and for executing attacks.

The data should be disseminated to national and international institutions. At the national level, the FIU disseminates STRs to law enforcement authorities for investigation and prosecution. The legal framework in the country prescribes to which institution the report will be submitted. In countries where the FIU is an administrative type, the financial analysis conducted by the FIU is an intelligence product and contains grounds for suspicion of money laundering and terror financing. In those cases, the FIU submits a report to the law enforcement agency with the authority to investigate. However, in cases where the FIU is a law enforcement-administrative type, the report is submitted to the public prosecutor’s office. Therefore, the jurisdiction and type of FIU (law enforcement or judicial) determines if it has the legal capacity to initiate investigations and file charges.

Considering the international character of money laundering and terror financing, there is a need for international cooperation among

Monitoring Process



Source: Ivica Simonovski, Ph.D.

bank to postpone the transaction. The time frame for postponing a transaction is different from jurisdiction to jurisdiction. For example, in North Macedonia the Financial Intelligence Office can submit a request to postpone a transaction for a maximum of 72 hours. During this period, the office asks the prosecutor to determine the provisional measures that should be taken. The request shall include data on the crime, the facts and circumstances that justify the need for the provisional measures, data on the people involved, the entity performing the transaction and the amount of money. If the public prosecutor determines that the request is reasonable, within 24 hours of receiving the request he/she submits a proposal to a judge. The judge is required to decide within 24 hours either to implement the provisional measures or to deny the prosecutor's proposal.

Monitoring customers

The monitoring of a customer's business relations (especially the ones that the bank has categorized as high risk) is essential to determining whether the customer is involved in money laundering or terror financing. FATF

Recommendation 10 states that financial institutions should undertake due diligence measures when:

- Customers establish business relations.
- Customers carry out occasional transactions (above the designated threshold of 15,000 euros or when undertaking suspicious wire transfers).
- There is a suspicion of money laundering or terror financing.
- There are doubts about the veracity or adequacy of customer identification data.

An FIU should have the authority to request a legal order that will allow it to monitor business relations when there is a basis to suspect money laundering or terror financing. The order requires the relevant entities to monitor all transactions or activities of the people listed in the order. Unless otherwise specified in the order, the entity is required to inform the FIU before a transaction or activity is conducted. The monitoring of the business relation generally lasts three months, and for justified reasons this measure can be extended for one month but not more than six months. □

Lessons Learned in **SERBIA**

By **Vladan Lukić**, chief police inspector, Ministry of Internal Affairs, Serbia



Migrants wait at a registration camp in Preševo, Serbia.
REUTERS

Whether trafficked or smuggled, immigrants can be exploited

Discussions about human smuggling in Southeast Europe or along the “Balkan route” are mostly related to illegal immigrants and refugee flows. From 2015 to the middle of 2016, huge numbers of refugees and immigrants from Syria, Afghanistan, Pakistan and elsewhere passed through Balkan countries into Western Europe — with Germany being the most common destination.

Organized crime saw an opportunity when the Balkan route closed in 2016 and began arranging cross-border human smuggling trips. In contrast to human trafficking, human smuggling is always international and always a cross-border activity. Under international law, human smuggling is banned under the same United Nations convention that bans human trafficking — the Convention against Transnational Organized Crime — but with the supplemental Protocol against the Smuggling of Migrants by Land, Sea and Air. This protocol defines human smuggling as “the procurement, to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or permanent resident.”

Serbia’s national criminal code defines illegal border crossings as “crossing the state border or attempting to cross the state border without permission,” and human smuggling as “intent to acquire a benefit to provide illegal crossing of the border of the Republic of Serbia.”

Trafficking vs. smuggling

The trafficking of humans and smuggling of immigrants are related and similar but also differ, and that can be confusing to those inexperienced in this area. While smuggling is always international, human trafficking does not need international elements; human trafficking can occur even within a small area. Undocumented migration across borders does not have to be coercive

or exploitative, while coercion and exploitation are the main elements of human trafficking. The U.N. Protocol against the Smuggling of Migrants by Land, Sea and Air emphasizes the mutual financial agreement between the smuggler and the migrant as a major component of the definition of smuggling. Another U.N. accord, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, defines the act of trafficking people as the illegal transportation against the will of an individual, by use of coercion, bribery, force or deception.



The absence of an overview of migration flows led to a lack of understanding of the rights and protection mechanisms that should be provided to immigrants and refugees.



Syrian refugees wash at an old train station while waiting for European borders to reopen in Belgrade, Serbia. EPA

Though they differ in definition and elements, these two types of organized crime can operate together. Smuggled migrants are highly vulnerable to exploitation because of the immigrant's nondefined status. In a situation where migrants are exploited, an act of smuggling also becomes an act of trafficking. The exploitation can occur during transportation or at the destination. Even at the point of destination, even after separating from the smuggler, migrants remain vulnerable to exploitation and abuse. The demand for cheap labor and sexual services is present. Common migration push factors such as poverty and a lack of opportunity contribute to the vulnerability of immigrants.

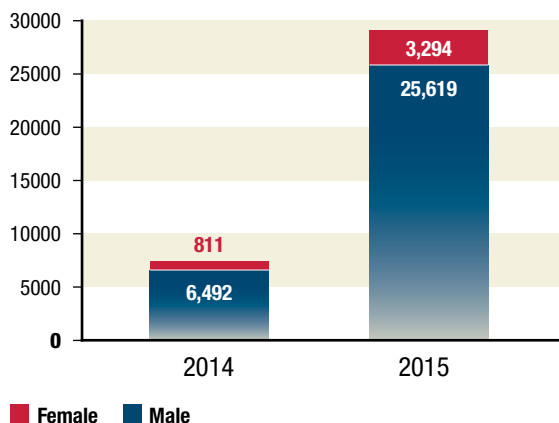
Illegal immigration

In Serbia and other countries that faced the massive flow of migrants and refugees from 2014 through early 2016, a key challenge was to provide for their basic needs. Large numbers of immigrants passed through Serbian territory, most staying in the country for a very short time, from a few hours to a week. In 2014, Serbia registered 16,500 migrants who intended to request asylum. About 1,800 of them were female and especially vulnerable to trafficking. In 2015, the number of migrants seeking asylum was 35 times greater than the previous year, rising to about 580,000, with roughly 157,000 of them female.

The absence of an overview of migration flows led to a lack of understanding of the rights and protection mechanisms that should be provided to immigrants and refugees. Most immigration enforcement procedures were the result of political decisions, which led to immigrants feeling legally insecure and consequently mistrustful of the authorities. For that reason, migrants tried to avoid official border crossings and registration, which made it difficult to identify and protect possible victims of human trafficking.

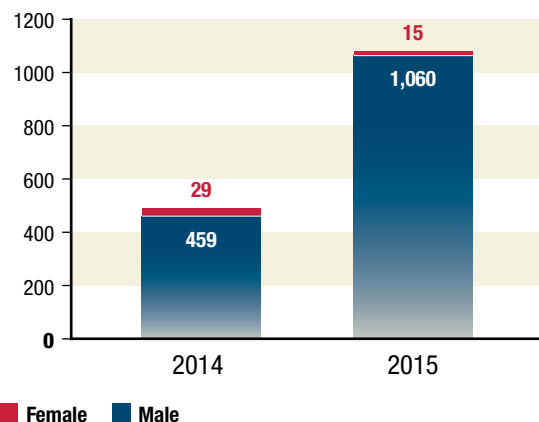
In 2014, 7,303 immigrants (6,492 male and 811 female) were caught crossing the border at unsanctioned crossing points and avoiding registration and

FIGURE 1: Number of people who illegally crossed the Republic of Serbia border in 2014 and 2015



Sources: Vladan Lukić and Group 484

FIGURE 2: Number of smugglers prosecuted in 2014 and 2015 in the Republic of Serbia

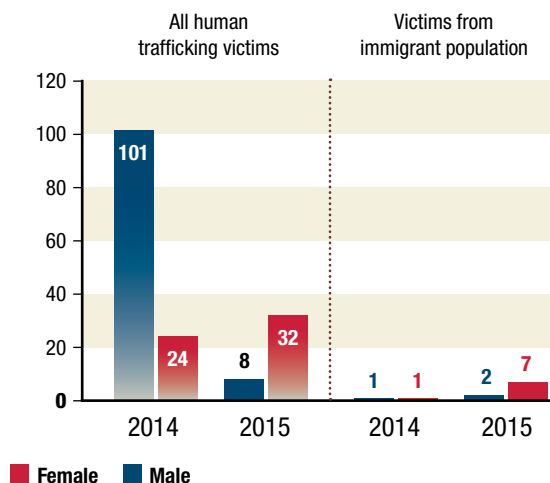


Sources: Vladan Lukić and Group 484

contact with Serbian authorities. In 2015, the number of those caught was four times greater, increasing to 28,913 (25,619 male, 3,294 female) (Figure 1). At the beginning of 2016, after political will waned and opinions shifted about migrants and refugees, registered migrants stayed longer in Serbia amid diminished opportunities to safely cross the border. Additionally, government measures to better control state borders led to an increase in migrant smuggling.

In 2014, Serbian police prosecuted 488 smugglers. The following year, more than twice the number of smugglers (1,075) were prosecuted (Figure 2). This was the result of improved government efforts to identify and prosecute smugglers and increased border controls, but also of increased smuggling activity. With improved measures to control illegal immigration and

FIGURE 3: Human trafficking victims in the Republic of Serbia in 2014 and 2015 as compared to human trafficking victims from the immigrant populations in 2014 and 2015



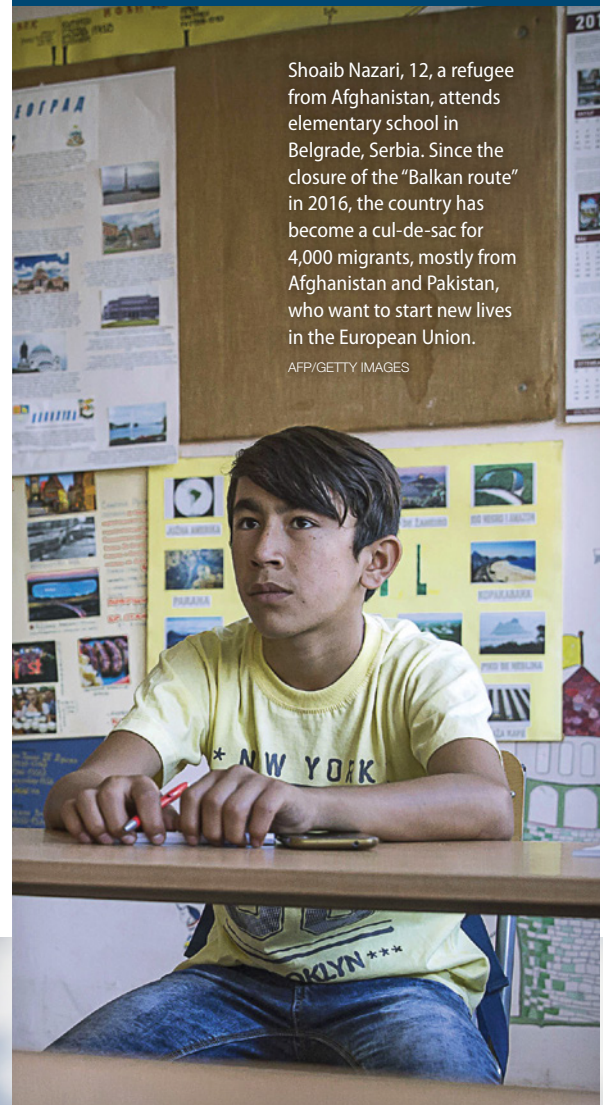
Sources: Vladan Lukić and Group 484

other activities at illegal border crossings, investigations of human smuggling increased. And as immigrants remained longer in Serbia and increasingly cooperated with state authorities, government agencies were better able to identify potential victims of human trafficking among the immigrant and refugee populations, and to provide better protection of and services to especially vulnerable groups such as women and children, thereby identifying indicators of human trafficking.

Investigations of human trafficking crimes decreased between 2014 and 2015, a change explained by the transfer of law enforcement resources from domestic human trafficking to border and cross-border activities. In 2014, Serbian authorities discovered 125 victims of human trafficking (101 male and 24 female). During the same period, only one male victim and one female victim were identified in the immigrant population. In 2015, 40 victims of human trafficking were identified (eight male and 32 female), with nine (two male and seven female) in the immigrant population (Figure 3).

Protection gaps

Female refugees lacked access to basic services in transit centers, including sexual and reproductive health care. “The lack of clear information and inability to access interpreters, especially female interpreters, hinder women



Shoaib Nazari, 12, a refugee from Afghanistan, attends elementary school in Belgrade, Serbia. Since the closure of the “Balkan route” in 2016, the country has become a cul-de-sac for 4,000 migrants, mostly from Afghanistan and Pakistan, who want to start new lives in the European Union.

AFP/GETTY IMAGES



Migrants, intent on reaching the European Union, walk through frozen fields near Miratovac, Serbia, after crossing the border from Macedonia. REUTERS

and girls from accessing services and understanding their rights in the transit process, and a general lack of knowledge leaves them vulnerable to smugglers and other opportunists who prey on their desperation,” according to “No Safety for Refugee Women on the European Route: Report from the Balkans,” a report from the Women’s Refugee Commission. “Not only are government officials inadequately equipped to identify and ensure appropriate services are available for vulnerable populations, but efforts to incorporate much-needed services are negated. Civil society organizations with relevant gender expertise are typically excluded from the places where they could be most helpful,” the report concluded.

Serbia is a transit country on the Balkan route, and it is difficult to know whether females were subject to violence, fraud and exploitation, and if they were, to what extent. Due to the relatively short stay of migrants, a relationship of trust could not be established, so victims were unable to openly communicate their experiences or ask for help. Victim identification is also difficult for other reasons. Refugees are not motivated to identify themselves as victims and report abuses to authorities because their aim is to reach the European Union, not to stay longer in Serbia or to separate from their group.

Nongovernmental organizations (NGOs) in Serbia that work to identify human trafficking and smuggling victims and provide services to migrants often comment that Serbian government officials — even law enforcement (Ministry of Internal Affairs) — that are first to come into contact with immigrants and refugees are not sensitive enough, do not have the knowledge and training to identify human trafficking victims, and lack the capacity to accommodate, service and protect these victims. Also, medical care field teams did not record any injuries that could be attributed to violence; however, the NGOs recorded that refugees arriving from other Balkan countries had visible injuries, bruises, scratches and scars, a consequence of violence and torture by officials.

According to the U.N. High Commissioner for Refugees’ Guidelines on International Protection and the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, help should be provided to victims when trafficking indicators exist. To prevent secondary victimization and unnecessary suffering, investigators should prohibit unnecessary contact between victims and the accused.

Providing services and support to victims should not be conditioned on cooperation during the investigation or court process. The U.N. Committee on the Elimination of Discrimination Against Women expressed concern that “victims of trafficking who do not cooperate with the police in the investigation and prosecution of traffickers are excluded from the protection.”

The lack of precise indicators to identify trafficking and smuggling victims and the insufficient training of government officials who are first to contact refugees and immigrants hinder the early detection of human trafficking



United Nations High Commissioner for Refugees Filippo Grande speaks to the press after assessing the migrant situation at the Hungarian-Serbian border in September 2017. AFP/GETTY IMAGES

victims. Failing to implement the minimum standards for protecting migrants and human trafficking victims has consequences for the refugee and immigrant populations.

Recommendations

Human trafficking and smuggling are related, but they are not the same. As a vulnerable population, migrants can easily become victims of human trafficking. Because migrant and refugee flows through Southeast Europe spiked in recent years, governments should make efforts to suppress smugglers, to adequately work with refugees and immigrants to identify possible victims of human trafficking, and to provide necessary services and protection to victims in accordance with international conventions and standards. In that context, governments should:

1. **Develop and implement standards and procedures** at all stages of victim protection, from identification to reintegration, and develop protocols about cooperation between government and NGOs.
2. **Allocate staff and resources** to adequately respond to human trafficking and human smuggling crimes.
3. **Educate government employees** about human trafficking, especially those who first come into contact with migrants and refugees, and increase their sensitivity to better recognize potential human trafficking victims.
4. **Make efforts to increase the capacity** to accommodate refugees and immigrants, especially the capacity of shelters for possible human trafficking victims, and to ensure service and support to better overcome victim traumatization. □



CONFRONTING THE SCOURGE HEAD-ON

**Ukraine develops a comprehensive
national strategy to counter
organized crime**

By Maj. Andrii Rudyi

Organized crime and corruption analyst, Security Service of Ukraine

A well-coordinated and organized response that sufficiently empowers state institutions to be free from corruption — in partnership with civil society and the international community — is essential when trying to increase security and public safety. This statement best describes Ukraine’s strategy for combating organized crime.

The fight against organized crime is one of the country’s major challenges. Organized crime violates the fundamental values of civil society; it impedes economic, social, cultural and political development, contradicts the principles of the rule of law and threatens the security of the country and region. The implementation of a correct government policy ensures the formation of a democratic, social and legal state. The implemented reforms and accompanying legal and institutional changes define the challenges and needs on a national level, which is a prerequisite for a country’s continued development.

The goal of Ukraine’s policy for fighting organized crime is to create, by 2022, the legal and institutional space that will ensure sustainable achievements. This means ensuring that citizens live in a peaceful and secure environment and enjoy the protection of legal rights and democratic standards. This leads to the prevention of crime, the strengthening of cooperation at the international level, and the establishment of close and trusted relationships with the public.

In accordance with these goals, the vision statement of the National Strategy of Ukraine for Combating Organized Crime is: “Diminish the effects of transnational organized crime (TOC) on Ukraine from the level of a national security threat to a public safety issue.”

Outcomes and risk assessment

Reforms implemented as a result of correctly defined policies ensure that steadfast results are achieved in the fight against organized

crime, in crime prevention and when protecting public values.

Ukraine’s geographical location is strategically important for organized crime groups and increases the threat from TOC. Ukraine has been used recently as a transit corridor, sometimes for the transport of migrants by organized groups. The existence of occupied territories in Ukraine increases the prospect of illegal migration by fostering a favorable environment for organized crime groups.

The region’s political instability, the occupation of Ukrainian territories, and the existence of conflict zones where the state’s jurisdiction does not apply, negatively impact state security and the social and economic status of the country. The potential dissemination of conflicts presents a favorable climate for organized crime groups within and outside of the country because political instability and occupied territories increase the risk that criminal entities will establish a foothold, requiring complex responses by the state.

In the case of Ukraine, after researching the strategy development process — in particular

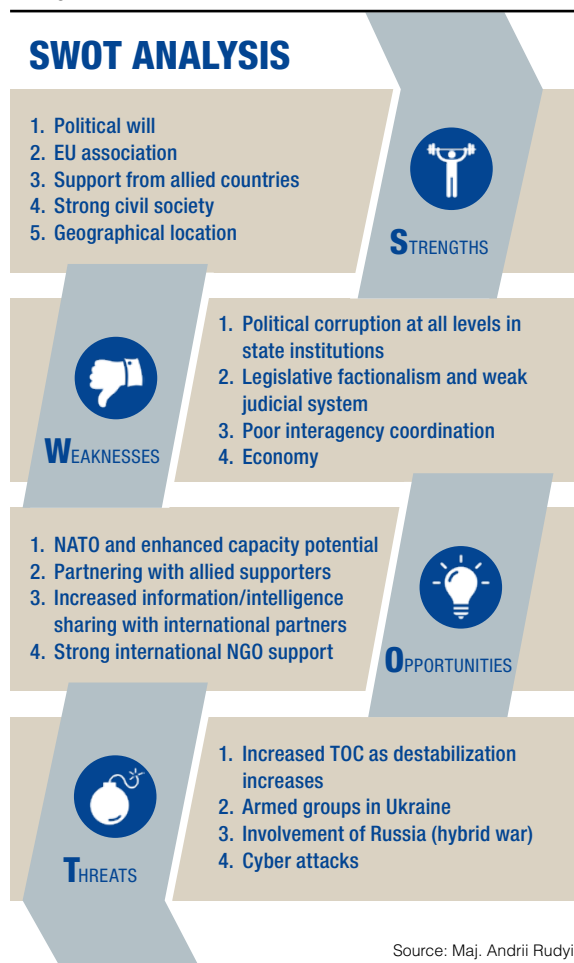
Countering transnational organized crime professionals from law enforcement, the military and government ministries gather at the Marshall Center to develop a national strategy for fighting organized crime in the Ukraine.

MARSHALL CENTER



the threat assessment, capabilities assessment and the strength, weakness, opportunity and threat analysis (diagram 1) — the best strategy to counter organized crime is a coercive, whole-of-government model led by the prime minister's office.

DIAGRAM 1



Institutional Framework

In the fight against organized crime, great importance is given to close, effective, consistent and results-oriented interagency coordination. By government decree, in Ukraine the Interagency Coordinating Council for Combating Organized Crime is authorized to prepare proposals and recommendations for the development of a unified strategic approach by the state, taking into account the principles of the rule of law and human rights. Interagency coordination will encourage the participation of nongovernmental organizations (NGOs), international organizations, scientists and experts. The coordinating council will unite six agencies:

- Ministry of Internal Affairs
- Security Service of Ukraine

- National Anti-Corruption Bureau (NABU)
- State Bureau of Investigations
- Office of the General Prosecutor
- State Fiscal Service of Ukraine

The council organizes intergovernmental and internal-level meetings and conferences. Effective and consistent cooperation depends on the principle of transparency.

Approval and implementation

Implementing the strategy depends on achieving these main goals:

1. Establish an effective national anti-corruption mechanism.
2. Foster an independent and transparent judicial branch to prosecute TOC.
3. Reduce/diminish/manage TOC in all its manifestations.
4. Improve domestic and international counter-TOC cooperation and coordination.

The draft strategy is meant to maintain the success achieved in the fight against organized crime and to improve existing mechanisms. Its implementation will be coordinated by the Interagency Coordinating Council, which will be developed in two stages over four years. Funding will be provided by the state and by donor organizations and partner countries.

The National Strategy for Combating Organized Crime is a protean document, and changes will be based on the challenges identified during its implementation. While implementing this strategy, it is very important to engage all the key players. The best tool to achieve that goal is strategic communication (diagram 2). The strategic communication model is based on whole-of-government, whole-of-society and whole-of-international-society approaches.

In the whole-of-government approach, the platforms for communication will be the government of Ukraine and the Interagency Coordinating Council for Combating Organized Crime. These two entities represent all key players and will make possible the successful implementation, monitoring, measuring and adjustment of the strategy.

The responsible entity for the whole-of-society approach will be the Ministry of Information Policy. It is critical that the public hears a consistent message about the government's efforts to combat TOC. The government must share results, steps, goals and activities with the public via all media resources. By involving academia, experts and NGOs, and by holding forums, workshops and conferences, the state can gather public feedback to better adjust its strategy.

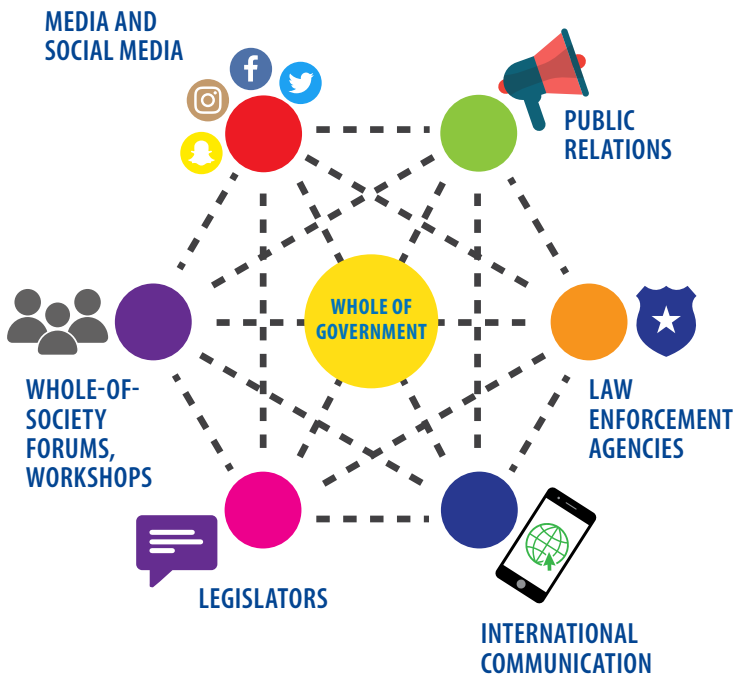
Finally, the whole-of-international-society approach must show that Ukraine is standing hand in hand with the rest of the world to fight TOC.



A Romanian customs employee checks a vehicle for smuggled goods after crossing from Ukraine into Romania.
THE ASSOCIATED PRESS

DIAGRAM 2

STRATEGIC COMMUNICATION MODEL



Source: Maj, Andrii Rudyi

Monitoring and evaluation

Monitoring, reporting and evaluation is an integral part of the policy process. The strategy will be monitored by the annual performance report, though it may be prepared quarterly based on performance indicators. The report should provide the status of goals and objectives and briefly describe the main achievements and reflect the main outcomes of the policy.

The secretariat of the Interagency Coordination Council will coordinate the annual report preparation. The agencies responsible for achieving the goals and implementing the activities will submit information to the secretariat, which will prepare a report for implementing the strategy and action plan.

The secretariat will produce a final assessment with conclusions and recommendations for a comprehensive policy and submit it to the government.

Implementing this national strategy to combat organized crime will ensure the country's sustainable development. It will advance public security, economic stability, social justice and pride for Ukraine in Europe and the world. □

This draft strategy was a team effort by international security professionals and Marshall Center mentors, Special Agent John Fencsak and Dr. Graeme Herd.

Fighting Corruption

— IN CROATIA —

A specialized office targets organized crime

By Saša Manojlović and Marta Šamota Galjer

Corruption and organized crime emerged as serious problems in the Republic of Croatia and other Balkan states as they worked to transition from the communist system of the former Yugoslavia to independent, market-based democracies. In response, Croatia founded the Office for the Suppression of Corruption and Organized Crime (USKOK) in December 2001 in accordance with the Act on USKOK, which was adopted earlier that year. USKOK is a specialized office within the Croatian state attorney's organization. Its authority extends throughout the country and covers suppression of corruption and organized crime.

The head of USKOK is appointed by the attorney general to a four-year term and is

supported by 33 deputies and various other employees. USKOK, as a special state attorney's office, differs in organization from other such offices in that each department deals with a specialty. The departments include research and documentation, anti-corruption and public relations, international cooperation and joint investigations, and the secretariat and supporting services. The fight against corruption is carried out mainly by the prosecutor's and financial investigations departments.

The prosecutor's department is a collegium of deputies who are assigned individual cases and can conduct inquiries and criminal investigations, bring indictments and represent the prosecution at trial. Depending on the complexity of each case, prosecutors work individually or in teams.



ISTOCK

The financial investigations department was set up within USKOK in 2014 to focus on collecting data and evidence to locate and seize the proceeds of crime. This department's employees are well-versed in conducting financial inquiries. These can entail the gathering and analyzing of large amounts of financial data, including the banking and financial information of suspects and those connected with them (family members, in-laws, related legal entities, etc.). Assets such as real estate, vehicles, stocks and luxury commodities are traced to the sources and compared to the legal income of the suspects. The department also assists in obtaining court orders to freeze the assets of the accused or connected third parties.

Since its founding, the office has developed and strengthened its capacities to adapt to evolving challenges in line with legislative and institutional changes in Croatia, resulting in ever better results. USKOK has investigated and prosecuted corruption at all levels, from street-level petty corruption, to midlevel corruption among university professors, judges, court experts and medical doctors, to corruption at the highest levels, including government ministers, ambassadors, high-ranking officers of the Croatian Army and a former prime minister.

The prosecution of high-level corruption has played a significant role in strengthening the rule of law in Croatia by sending a clear message that there are no “untouchables” — that in Croatia, no person is exempt from the law. However, fighting local government corruption is also a USKOK priority, and it has resulted in the prosecution of numerous municipality heads, mayors, county prefects and others.

In addition to classic organized crime cases involving drugs and people smuggling, USKOK also prosecutes complex organized economic crimes, particularly tax evasion, and has achieved an extremely high 93 percent conviction rate. Due to these results, USKOK has become a model for fighting corruption effectively, especially for neighboring countries with similar legal systems facing similar problems.

COOPERATION

Cooperation with other state authorities, primarily those responsible for detecting criminal offenses, is key to USKOK's efficient work. The Act on USKOK prescribes that all state authorities — within the scope of their activities — that discover a possible criminal offense falling under USKOK's jurisdiction are obliged to inform USKOK. As a primary authority in criminal prosecution, USKOK has several memoranda of understanding with other state authorities, such as the Tax Administration and the General Police Directorate, which precisely designate the scope of cooperation and the contacts who can rapidly receive all necessary information.

Furthermore, modern forms of crime increasingly

have an international dimension, which is an additional challenge for all law enforcement authorities. As more cases within USKOK's jurisdiction have international character, developing international cooperation is increasingly important in efficiently prosecuting crime. The state attorney's office concluded a series of agreements with state attorney's offices of other countries allowing for the direct exchange of information in the pretrial phase and, if needed, through regular mutual legal assistance.

USKOK's relationship with Eurojust has proven to be an important example of international cooperation. It began in 2009 when Croatia sent a deputy state attorney general to Eurojust as a liaison prosecutor. When Croatia became a full member of the European Union on July 1, 2013, the liaison prosecutor became Croatia's national member representative. Eurojust provides significant support by coordinating meetings to exchange data from parallel investigations being conducted in Croatia and other states; by harmonizing further actions and agreeing on requirements for sending formal mutual legal assistance requests (letters rogatory); and by expediting fulfilment of such requests.

USKOK takes a proactive, collaborative and multidisciplinary approach to investigations. Multidisciplinary teams consist of several prosecutors and include representatives of other authorities — the police and agencies of the Ministry of Finance, such as the Tax Administration's Independent Financial Investigation Sector, the Anti-Money Laundering Office and the Customs Administration.

On the most complex cases, the Independent Financial Investigation Sector contributes significantly. Established in 2015, the expert knowledge and analyses of this unit are indispensable in prosecuting multimillion euro financial crimes related to defrauding the state budget.

ASSET SEIZURE

It is a fundamental legal principle — and a principle of USKOK's mission — that no one shall retain the proceeds of an unlawful act. Pecuniary gain is the primary motivation in most corruption cases, which criminal groups then often invest in real estate or business activities to “wash” the “dirty” money and earn even more. Therefore, the goal of criminal prosecution is not only to impose sanctions, but also to seize the illegally acquired proceeds, which serves as both a tool of restoration and a preventive measure.

The Croatian Criminal Code prescribes that “pecuniary advantage obtained by a criminal offense” means direct gains and gains in the value — or preventing a decrease in value — of property as a result of a crime. But it also means any gains in the value of property obtained through the proceeds of a crime, as well as any other advantage gained or property obtained, irrespective of whether the property is



located in Croatia. Furthermore, an “asset” is considered an asset of any kind, irrespective of whether it is material or immaterial, movable or immobile. The definitions of “pecuniary gain” and “asset” have changed in Croatian legislation throughout the years, following the adoption of conventions that focus on fighting corruption and organized crime (the United Nations Convention against Corruption and the U.N. Convention against Transnational Organized Crime) and EU directives (most recently, Directive 2014/42/EU from April 2014), and by adapting to monetary innovations (bitcoin and other cryptocurrencies) to assure that all forms of pecuniary gain are included.

The Croatian Criminal Code also distinguishes between “regular” and extended asset seizure. The first prescribes that pecuniary gain will be seized through a court ruling, when it has been determined that an unlawful act was committed. Assets may also be seized from a person to whom it was transferred. Extended asset seizure is prescribed if the proceeds are from a crime falling under the authority of USKOK, or from crimes of sexual abuse and sexual exploitation of children, or against computer systems, programs and data. The main condition for applying this law is establishing that the perpetrator owns or has owned property



Above: A Copenhagen player gets a red card from a Croatian referee during the second leg of a Champions League qualification match in Hamburg, Germany. Police in 2011 arrested the deputy president of the Croatian Football Association and the head of the body’s referee commission and accused them of pocketing 100,000 euros in bribes.

Top: Real Madrid player Luka Modrić arrives at the courthouse in Osijek, Croatia, in 2017 to testify in his former agent’s corruption trial.



Croatian and EU flags fly outside Croatia's parliament building at St. Mark's Square in Zagreb. ISTOCK



incommensurate with his/her legitimate income unless he/she can demonstrate that the property was obtained from legitimate resources.

In addition to determining the facts of a crime and the scope of the pecuniary gain, a USKOK financial investigation also seeks to establish the origin and legality of all assets owned by the accused. The Criminal Code allows for the seizure of assets from family members — or from any other person associated with the accused — irrespective of whether the asset is legally owned and regardless of whether the family member shares a household with the perpetrator, if the asset was likely acquired with the proceeds of criminal activity or through corruption.

The policy of extended confiscation has raised questions, and not only in Croatia, about compatibility with presumption of innocence, as guaranteed by Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and by the Croatian Constitution and Criminal Code. The European Court for Human Rights (ECHR) has dealt with this matter in a number of cases, but *Phillips v. the United Kingdom* may be pivotal regarding the court's view on the legality of extended confiscation and its compliance with the rights of the accused.

In this case, the court was asked to establish whether the applicant was subject to new charges (regarding assets derived from unproven criminal conduct) and, if not, whether the presumption of innocence produced an effect, notwithstanding the absence of new charges. In his September 2017 article in *ERA Forum*, Michele Simonato explains: “The main argument leading the court to find Article 6(2) ECHR non-applicable to those facts is that the purpose of the reference to other criminal conduct ‘was not the conviction or acquittal of the applicant for any other drug-related offense’ but ‘to enable the national court to assess the amount at which the confiscation order should properly be fixed.’” In other words, the Court considered the reference to other offenses only as a criterion to determine the extent of the confiscation, operating in the sentencing phase (for the judged offenses) but not representing a new charge for the other non-judged offenses allegedly committed by the convicted person.” This summarizes the main goal of extended confiscation, at least for the Croatian criminal system, and that is restoring the state to what it was prior to the criminal acts, not further punishing the defendant. Regarding the reversed burden of proof, the court held that it did not violate the notion of a fair hearing under Article 6(1) ECHR. Simonato writes, “According to the ECHR, the applicant benefited from adequate safeguards: among them, a public hearing where he could adduce documentary and oral evidence, and the effective possibility to rebut the presumption of the criminal origin of the assets targeted by the extended confiscation.”

It is safe to say that the burden of proof in these

matters is not totally shifted onto the defendant under the Croatian criminal code. To prove disproportion, a prosecutor is obliged to collect all data on all the defendant's earnings (e.g., records of salaries, inheritance, gifts, sales of property or possible lottery wins), as well as the data concerning his expenditure (e.g., utilities, daily expenditures, eventual purchases of real estate, cars and medical bills). In addition, during a financial investigation, data on income and expenditures of the defendant's family members are collected to properly



Former Croatian Prime Minister Ivo Sanader stands in a courtroom in Zagreb, Croatia, in 2012 after being found guilty of corruption charges. He was sentenced to 10 years in prison. THE ASSOCIATED PRESS

ascertain the disproportion. An expert witness in finance analyzes the accumulated data to determine whether the defendant and his family could have obtained their assets from their legal incomes.

In financial investigations, regardless of what type of confiscation is applicable, the prosecutor must interrogate everyone who has any knowledge as to how the defendant acquired his property. The Criminal Procedural Act

prescribes the procedure for asset recovery while protecting the rights of people to which the proceeds of crime have been transferred. While they must be questioned in the criminal proceeding, they are entitled to be represented by a lawyer, present evidence, question witnesses and the accused, and be present at trial.

The defendant must be prevented from disposing of his assets once he becomes aware of proceedings against him, which is why the Criminal Procedural Act allows freezing assets that have been deemed the proceeds of crime. The current law allows a freezing order to be issued at any time; before, during or after the criminal proceeding. There are seven types of freezing orders, but a prosecutor may propose whatever is necessary to ensure the possibility of asset seizure at the end of the proceeding. Freezing orders may be appealed to the Supreme Court of Croatia. But none of this could be used if financial inquiries do not begin shortly after inquiries into a criminal offense are initiated. Croatian criminal law also allows for non-conviction-based confiscation in cases when the defendant dies before the end of a trial.

ASSET SEIZURE CASES

'Croatian Motorways'

In October 2013, USKOK initiated a criminal investigation into bribery and misuse of authority by high-ranking officials in the Croatian Motorways Co. and Croatian Roads Co. (two state-owned companies in charge of building and maintaining roads in Croatia), and by leading people in private construction companies that build motorways and roads.

The investigation revealed a founded suspicion that a former minister of sea, tourism, traffic and development — whose ministry was in charge of building and developing infrastructure, including a network of motorways and roads — organized a criminal group to illegally extract money from the two state-owned companies through individual contractors, i.e., private construction companies. The group consisted of high-ranking officials in his ministry and leaders at the companies.

The former minister apparently ensured that his cronies were appointed to positions of control at the two companies (i.e., as heads of the controlling boards and executive boards of both companies) where, through their official positions and their mutual connections, they could influence the conduct of business.

These private companies were instructed to make payments for fictitious services to subcontracting companies run by members of the group. A group member running these subcontracting companies facilitated the transfer of money to an offshore company in Austria under his control, made cash withdrawals from the accounts of this offshore company, kept a fee for himself, and returned the rest of the money in cash to another group member on the executive board of Croatian Motorways Co. to be distributed among the other group

members, including the minister. There were additional acts of misuse of authority and bribery, using the fictitious subcontracting companies to extract money from private companies to pay bribes.

An indictment was brought in June 2015 against the former minister and 11 other members of the criminal association for crimes totaling an estimated 10.5 million euros in financial damage to Croatian Motorways Co. and Croatian Roads Co. The indictment was confirmed for trial in November 2016 by the Council of the County Court in Zagreb.

After the indictment was confirmed, three of the defendants, who pleaded guilty in expectation of more lenient sentences, agreed to confiscation of assets as a means of recovering illegal gains and damage compensation. During the criminal investigation, USKOK obtained freezing orders from the court on the property of the defendants. Parts of this frozen property was confiscated in accordance with the respective plea bargains. In addition, approximately 100,000 euros that were frozen in the bank accounts of one defendant were confiscated and transferred to the state treasury. Civil accords with another defendant — whose frozen assets were inadequate to fully compensate for the damage — and his family members resulted in the transfer of the ownership of several pieces of real estate and a vehicle to the state, with a total value in property and financial assets of approximately 770,000 euros.

The ‘Offside’ Case

This case was one of the more publicized in Croatia since it involved corruption among football players, football coaches and football club officials that resulted in fixing football matches in the Croatian First Football League.

Inquiries were launched after German authorities, while conducting their own criminal inquiries, acquired and shared information suggesting that certain Croatian football matches were fixed. This led to months of special, court-ordered evidence collection through surveillance, telephone interception and other means of remote technical operations, and covertly following and recording people and objects by Croatian authorities.

In June 2010, USKOK initiated a criminal investigation against 20 Croatians and two Slovenians for conspiracy to commit criminal acts, offering and accepting bribes, and fraud. The investigation revealed that three people organized multiple players, coaches and sports directors of clubs in the First Croatian Football League to fix scores in exchange for promises of money. The organizers then bet large sums on games they had fixed, illegally acquiring winnings of at least 5 million Croatian kuna (approximately 675,000 euros). Most of the betting was done over the internet, and large amounts were placed through betting companies registered in East Asia.

The indictment was confirmed for trial in 2011, but before that, six defendants pleaded guilty and

concluded accords in expectation of more lenient sentences. The organizers admitted that they illegally acquired at least 5 million kuna. All six defendants admitted that 82,520 euros were paid in bribes, and they were ordered to pay that amount to the state budget. To seize the criminal proceeds, the state reached — even before the plea bargains were in force — out-of-court settlements with three defendants who stipulated the transfer of ownership to the state of two apartments, valued at approximately 518,000 euros.

The remaining 16 defendants were found guilty and, in addition to prison sentences, were ordered to pay back bribes received in the amount of 165,500 euros. This verdict was confirmed by the Croatian Supreme Court in December 2013.

This case not only opened doors for further investigations into match fixing (during inquiries, information and evidence on match fixing in Italy, Hungary and Serbia was gathered, which was forwarded to their authorities, leading to criminal proceedings and convictions in those countries as well), it also showed that efficient criminal proceedings are not possible without confiscation of the proceeds of crime. Leaving the proceeds to the perpetrators would only enable further criminal activities and undermine the entire purpose of criminal proceedings.

CONCLUSION

The causes of corruption are not always evident. In his article, “Combating Corruption in Transitional Countries,” John Sullivan, executive director of the Center for International Private Enterprise, states: “It is important to recognize that corruption is not just a moral problem: it is an institutional problem, a matter of the underlying incentive structures that determine why things work the way they do. This understanding is key to effecting lasting change. The starting point is to examine and analyze how corruption occurs — what the enabling conditions are that allow a corrupt transaction to occur, whether in procurement, customs, land sales or any other area of the economy.” Along with exposing the culprits and trying them in court, this is one of the key factors in eradicating corruption from young democracies such as Croatia. But the “Croatian Motorways” and “Offside” cases show that taking away the proceeds of crime is essential to the process of change and prevention of corruption at all levels. It is also vital for the economic recovery of the country since most corruption cases directly affect the state budget as well as the standard of living of its citizens, and this cannot be restored through classic prison sentences.

Therefore, as USKOK continues to fight corruption in Croatia, the confiscation of illegal gains will remain a very effective tool for the prevention of future criminal acts, and a means of achieving a wider goal of social justice. □

COLOMBIA'S

COCA LEAF

BOOM



PER CONCORDIAM ILLUSTRATION

Why it should concern us all

By **Laura Diorella Islas Limiñana**, the Standing Group on Organised Crime of the European Consortium for Political Research

Cocaine production is growing again, despite the exhaustive, combined efforts of governments and the investment of billions of dollars into the fight against drug production and trafficking. In 2015, Colombia reported an estimated 140,000-plus hectares (about 346,000 acres) under coca leaf cultivation, similar to the amount registered at the beginning of the 2000s, according to the United Nations Office on Drugs and Crime (UNODC). But that was before the United States and Colombia implemented “Plan Colombia” in the 2000s, through which the U.S. invested over \$10 billion to tackle, among other things, coca growth.

WHAT'S HAPPENING IN COLOMBIA?

Colombia is the largest producer of cocaine, the second largest illicit drug consumed in the world, which means what's happening in Colombia matters to the rest of the world. Cocaine revenues help finance transnational criminal organizations, drug lords and warlords not only in Latin America, but also in Europe, Asia and Africa, according to the book, *Africa and the War on Drugs*, by Neil Carrier and Gernot Klantschnig. Hence, understanding Colombia is key to cutting the illicit resources of drug trafficking organizations everywhere.

To grasp the international threat posed by the increase in coca production, it's important to be aware of the current situation in Colombia. The country has become a security kaleidoscope on the national and international levels. In 2016, the Colombian government and the criminal/terrorist group Revolutionary Armed Forces of Colombia (FARC) signed peace

agreements to begin FARC's demilitarization. The agreement ended a 50-year conflict in which the FARC — which originally fought for farmers' land rights but morphed into an organized crime and terror group that produced and trafficked cocaine — ceased all armed and illicit activities and transformed into a political party. However, the conflict has not ended, or even decreased, the production of coca leaf, raising the question of who controls the coca production once controlled by the FARC.

Since the U.S. supported Colombia's effort against the FARC, it is likely that the U.S. will reduce its support in terms of security and funding, impacting the overall fight against coca production. If Colombia is viewed as an organic system in which all the parts interact to ensure the survival of the state and its rule of law, U.S. assistance — in its different forms — has served as a booster shot that helped the state organism fight off the sickness caused by security threats.

This should matter to the international community because, according to the UNODC, the top five per capita cocaine consuming countries are Albania, the U.S., the United Kingdom, Spain and Australia, three of which are in Europe. Considering that coca can only be cultivated in the Andean region (Bolivia, Colombia, Ecuador, Peru and Venezuela), what happens in the production zone will affect the dynamics of the cocaine supply chain in the rest of the world. The economic principles of supply and demand tell us that an unprecedented increase in production could be in response to an unknown increase in demand. However, it could also imply better production methods or a decline in

the Colombian government's capacity to restrain coca cultivation. In any case, it could create a surplus of the drug that could drop its retail price, making it more affordable to more people and creating an opportunity for drug trafficking organizations (DTOs) to increase consumption of the drug worldwide.

GROWING MORE COCA

During the last two decades of the 20th century, Colombia was immersed in drug trafficking and narcoterrorism in which the Medellín cartel, the major DTO at the time, engaged in a violent fight against the authorities. By 1994, U.S. security agencies, such as the Drug Enforcement Administration, had helped the Colombian government take down the Medellín and Cali cartels. In parallel, the government was trying without success to negotiate a peace agreement with the FARC, which in turn filled the power vacuum left in the cocaine trade after the cartels were defeated. The drug problem reached the point that, in 2000, the U.S. and Colombia initiated Plan Colombia. From 2000 to 2016, the U.S. gave more than \$10 billion of foreign assistance to support Plan Colombia and later programs, according to a November 2017 report by June Beittel and Liana Rosen for the U.S. Congressional Research Service. However, assistance decreased after 2012.

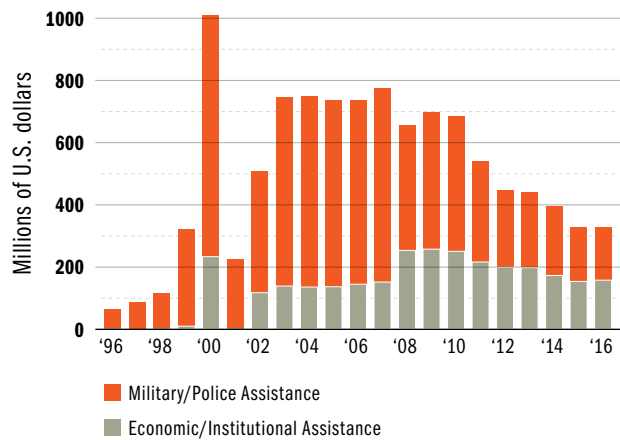
Under these changing circumstances, coca production has increased, and the Colombian government has not been able to efficiently address the problem on its own. As can be seen in the UNODC World Drug Report 2017, the area under coca cultivation increased from 69,000 to 96,000 hectares from 2014 to 2015, and to 146,000 hectares in 2016, an increase of more than 100 percent in less than three years. However, according to the U.S. State Department's Bureau of International Narcotics and Law Enforcement Affairs, cultivation grew from 80,500 to 188,000 hectares between 2013 and 2016. While the estimates between agencies differ, the abrupt increase in coca cultivation is evident.

At the same time, as shown in Table 1, there is a correlation between the decrease of U.S. aid and the increase in coca production; aid was reduced to historic levels of less than \$400 million per year in 2014. It is also possible that the increase is linked to ending aerial spraying of coca crops; however, this is yet to be assessed because the program was halted in 2016. U.S. Undersecretary of Political Affairs Thomas Shannon announced a new strategy in March 2018, following high-level bilateral meetings. The U.S. and Colombia will work together to reduce coca cultivation 50 percent by 2023.

Perhaps the Colombian state's institutional capacities without U.S. support are still not sufficient to counter coca growth. More important, in 2017 Colombia experienced a historic moment when the FARC peace accords were signed, and negotiations with the National Liberation Army (ELN) — Colombia's

second-largest guerrilla group — were scheduled, generating a criminal power vacuum in the region. That the increase in coca production occurred at the same time as the FARC peace agreements raises the question of who is in charge of coca production, a question that needs to be answered. In one possible scenario described in the Atlantic Council report, "Latin America and the Caribbean 2030: Future Scenarios," Gina Montiel of the Inter-American Development Bank projects that in 2030, Colombia will better be able to fight illegality, having improved its democratic institutions and strengthened its security apparatus and rule of law. However, today's increasing coca production indicates that the fight against illegality may be more complicated than it seems.

Table 1: U.S. aid to Colombia



Source: Security Assistance Monitor (<https://securityassistance.org/colombia>)

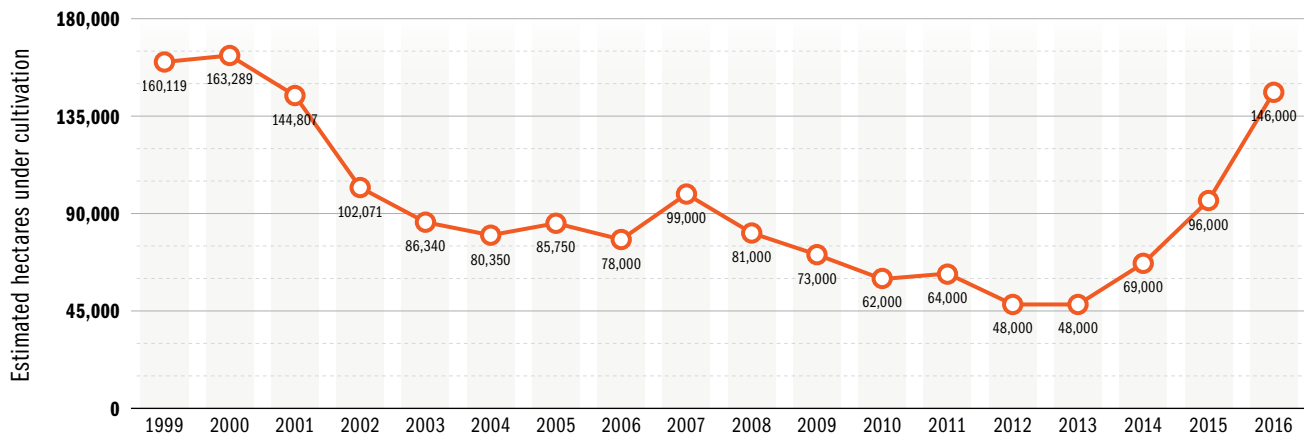
Why does Colombia matter to the international community and the top cocaine-using countries? There has been an alarming increase in coca production, which presumably means more cocaine on the market. Additionally, it is seemingly unclear who is controlling the increase in production or where the additional cocaine is destined. So far, neither the U.S. nor Europe has registered a sufficient increase in demand to account for the apparent surge in supply.

Moreover, in these uncertain circumstances, the security communities in Colombia and elsewhere may come to different understandings about who is filling the power vacuum left by the FARC's exit and how that impacts the international cocaine market. In the next few years, either the ELN will take control of the FARC's abandoned coca production and cocaine trafficking business, or a new player — national or international — will step in. Regardless, the increase in coca cultivation should be of concern everywhere. If demand for cocaine is growing, it will mean more



Members of an anti-narcotic police squad destroy a coca laboratory in Puerto Concordia, in Colombia's Meta Department. EPA

Table 2: Coca crop cultivation in Colombia, 1999-2016



Sources: UNODC Colombia Coca Cultivation Surveys, 2007-2017; Plan Colombia; National Planning Department of Colombia; Directorate of Justice and Security, 2006

revenue for narcotics trafficking networks, which means more influence and power for criminal organizations.

Transnational organized crime is a complex network of multidimensional contacts and alliances. As this criminal world evolves, criminal organizations find new ways to cooperate with each other. Therefore, a change in one place can precipitate multiple changes

If demand for cocaine is growing, it will mean more revenue for narcotics trafficking networks, which means more influence and power for criminal organizations.

that provoke the creation of new alliances. Moreover, alliances between transnational organized crime groups are created much faster than international cooperation agreements can be established between governments, putting law enforcement at a disadvantage. Therefore, countries with a cocaine problem need to understand what is happening in coca-producing countries and with trafficking networks to assess the drug's supply and street market value.

THE LAND OF COCA

Joint U.S.-Colombian efforts have reduced criminal instability; however, Colombia may have become dependent on U.S. security support. Perhaps reduced levels of U.S. support are contributing to the increase in coca production. If Colombia's security apparatus is vulnerable, the drawdown of U.S. support could provoke instability and criminal violence similar to

what is happening in some Central American countries. Weaker Colombian security structures would make it easier for cocaine to be produced and trafficked to the rest of the world.

The regional geopolitical scenario is of even greater concern for Colombia's security. Venezuela's social unrest and economic crisis, and Brazil's counter-narcotic efforts each generates its own spillover effects that necessitate Colombia to take preventive measures. The rate of inflation has been increasing exponentially in Venezuela since 2010. The unstable economic situation could provide opportunities for new criminal groups and increased illicit activity and spark irregular migration toward more stable countries. Any new criminal organizations are likely to be oriented toward highly profitable cocaine, which can be trafficked across different points along the more than 2,000-kilometer shared border.

Brazil, Venezuela and Colombia share a tri-national border in a region plagued by the trafficking of illicit substances, which are often moved through Brazil to be shipped across the Atlantic. According to the World Drug Report 2017, 58 percent of the cocaine trafficked to Africa and 35 percent trafficked to Asia exits South America via Brazil. Additionally, Brazil has emerged as a key consumer of cocaine, Paula Miraglia wrote in a 2016 report for Brookings. Apart from trafficking cocaine out of the Andean region, this incentivizes criminal organizations to spread their tentacles to supply the growing local market, making them even more difficult to combat. When Brazilian authorities cooperate with their African and Asian counterparts to tackle international trafficking, the increasingly sophisticated Brazilian



A member of an anti-narcotic police squad covers his face during a raid to destroy a coca laboratory in Colombia's southern state of Narino, near the border with Ecuador.

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A fighter for the 36th Front of the Revolutionary Armed Forces of Colombia, or FARC, rests in the northwest Andes of Colombia. The group signed a peace agreement with the government in 2016.

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networks make it ever more difficult to stop the drugs from leaving the departure ports.

CONCLUSION

In 2016, there were an estimated 213,000 hectares (526,000 acres) under coca cultivation in Colombia, Peru and Bolivia, with 68 percent of that in Colombia. According to the UNODC, that much coca carries the potential to produce 866 metric tons of cocaine. As the world's largest producer of coca and cocaine,

Colombia's dynamics of security and drug production should concern every country fighting cocaine trafficking and use at home.

The cocaine trade is directly or indirectly connected to many of the world's transnational criminal organizations. Cocaine trafficking to Europe has contributed to the empowerment of warlords and criminals in some West African countries, according to Carrier and Klantschnig. It is a source of substantial revenue for dangerous mafias such as Italy's 'Ndrangheta which, as reported in the newspaper *il Quotidiano del Sud*, plays a central role in trafficking and distributing cocaine in Europe. In Albania, which suffers from the highest per capita rate of cocaine users in the world, local mafia groups feed the problem while also playing a major role in the U.K. market, says the United Kingdom National Crime Agency.

Cocaine trafficking is an illicit business that funds terrorists, warlords and some of the most vicious mafias in Europe, Asia and around the world. However, unlike cannabis, methamphetamines or even heroin, cocaine is produced from a plant that can be grown only in the Andean region of South America. What happens in this region, and especially in Colombia, the most prolific cocaine producer, should concern everyone. □



PER CONCORDIAM ILLUSTRATION



European Integration Before **BREXIT**

What history reveals about the future

By **János Matus, Ph.D.**, International Business School, Budapest, Hungary

The British vote to leave the European Union came as a surprise to many people and raised many questions about the EU's future, even its very existence. But were there warning signs in the EU-British relationship that should have signaled the referendum's surprising outcome? And is there a reasonable approach to this complex problem that can help a majority of the British public understand what is happening with the EU? A short summary of the history of Europe's conflicts is helpful when trying to understand the need seven decades ago for fundamental changes in Europe. An overview of the theoretical concepts behind the foundation of a peaceful Europe brings a better understanding of the basic idea of European integration. Finally, whether the governments of EU member states and the EU's institutions in Brussels pursued wise growth policies also begs an answer.

BUILDING PEACE

Jack Levy, an American political scientist, prepared a summary of European conflict between 1495 and 1945 and identified 114 wars in which great powers participated on one or both sides. Statistical data revealed that France was the most frequent participant in those wars, and the victorious powers generally hold Germany responsible for the most destructive conflicts of all — the two world wars.

For centuries, balance-of-power politics was one of Great Britain's most important foreign policy tools. A famous statement by British Prime Minister Winston Churchill is a good characterization of the balance-of-power politics pursued by successive British governments:

“For four hundred years the foreign policy of England has been to oppose the strongest, most aggressive, most dominant Power on the continent. ... We always took the harder course, joined with the less strong Powers, made a combination among them, and thus defeated and frustrated the Continental military tyrant whoever he was, whatever nation he led.” Just before World War II, Churchill characterized his attitude toward military alliance: “If Hitler invaded Hell, I would make at least a favorable reference to the Devil in the House of Commons.” Even though he believed there was a natural affinity for democracies, 19th century British Foreign Secretary Lord Palmerston declared, “England has no permanent friends; she has only permanent interests.”

The United States distanced itself from Europe for many years. At the end of his presidency in 1796, George Washington warned his successors about the dangers of European conflicts and suggested they stay away from them. In 1823, U.S. President James Monroe further developed the concept by warning the European powers not to intervene in the internal affairs of the Western Hemisphere. Before announcing the Monroe Doctrine, the president rejected a British proposal regarding joint Anglo-American opposition to a possible European intervention in Spain's former American empire. The doctrine stated that any attempt by the European powers to impose their system on the Americas would be viewed as dangerous to peace and security, according to author Stephen J. Valone in *Two Centuries of U.S. Foreign Policy*. The Monroe Doctrine remained in force — except for the last two years of World

War I — until the beginning of World War II. After the war, a lengthy debate in Congress was followed by a decision in which the U.S. committed itself to long-term security cooperation with Western European countries. At the same time the U.S. expressed full support for close political, security and economic cooperation with countries within its own region.

Security has become a major issue of European integration. The argument that Europe's past must not be Europe's future figured in speeches by European leaders, especially on commemorative occasions. In a major

speech in 2000, German Foreign Minister Joschka Fischer said: "Fifty years ago almost to the day, Robert Schuman presented his vision of a European Federation for the preservation of peace. This heralded a completely new era in the history of Europe. European integration was the response to centuries of precarious balance of powers on this continent, which again and again resulted in terrible hegemonic wars culminating in the two World Wars between 1914 and 1945. The core of the concept of Europe after 1945 was and still is a rejection of the balance-of-power principle and the hegemonic ambitions of individual states that had emerged following the Peace of Westphalia

in 1648, a rejection which took the form of closer meshing of vital interests and the transfer of nation-state sovereign rights to supranational European institutions. ... A step backwards, even just standstill or contentment with what has been achieved, would demand a fatal price of all EU member states and of all those who want to become members; it would demand a fatal price above all of our people. This is particularly true for Germany and the Germans."

Former French President Jacques Chirac also took special opportunities to underline the importance of history in building a peaceful Europe. He characterized Franco-German relations the following way: "Germany, our neighbor, our adversary yesterday, our companion today. ... What France and Germany have experienced and undergone in history is unlike anything else. Better

than any other nation, they grasp the deep meaning of peace and of the European enterprise. They alone, by forcing the pace of things, could give the signal for a great coming together in Europe."

In Great Britain, the use of history was somewhat different from the German and French concept of integration. British Foreign Secretary Robin Cook wrote in an article during the Kosovo war in 1999: "There are now two Europes competing for the soul of our continent. One still follows the race ideology that blighted our continent under the fascists. The other emerged fifty years ago from behind the shadow of the Second World War." British Prime Minister Tony Blair said in a November 2000 speech in Croatia: "The 15 member states of the EU — countries that in the lifetime of my father were at war with one another — are now working in union, with 50 years of peace and prosperity behind us. And now, holding out the prospect of bringing the same peace and prosperity to the Eastern and Central European nations and even to the Balkan countries."

The securitization of history — when past issues are presented as existential security threats — has been clearly demonstrated by the leaders of the largest and most powerful EU members, the ones who have had the most direct experience in traditional power politics and who have also suffered the consequences. History as an object of securitization has been emphasized in the strongest way in statements by German politicians. Mutual securitization of history by France and Germany has been confirmed by the statements of politicians from both countries. Great Britain securitized history and the European integration differently, which can be explained by the special balancing role it played in European conflicts. Great Britain joined the European Economic Community later, and differences on fundamental issues soon surfaced.

THEORIES AND IDEAS

In the first half of the 20th century, two competing schools of thought dominated the theory of state behavior and relations among them. Political realism, the older concept and practice, held the view that international relations are conflictive by nature, wars are unavoidable, and states are the primary and dominant actors. In the international system, security is the most important concern of states and military force is its principle guarantor. The concept and practice of the balance of power belongs to the political realist school. World War I, the first global war, triggered sharp criticism of political realism and strengthened the position and influence of the second competing school of thought, classical liberalism, which favors international institutions when shaping state preferences and policy choices. Liberals rejected balance-of-power politics and the use of secret diplomacy in the relationship of states. They saw a better future with an international institution promoting greater cooperation among the states. Conflicts among states can be avoided when a harmony of interests exists. The first explanation of the liberal view of international

Great Britain securitized history and the European integration differently, which can be explained by the special balancing role it played in European conflicts. Great Britain joined the European Economic Community later, and the differences in fundamental issues soon surfaced.



Pro-Brexit crowds gather outside Parliament in London in 2016. Were signs missed that signaled more support for Brexit than the polls showed? EPA

relations and its implementation in international politics can be found in Woodrow Wilson's Fourteen Points.

European developments in the 1920s and 1930s produced increasingly convincing arguments against the liberal concept and political practices based on it. British historian Edward H. Carr criticized the liberal view of harmony of interests among states and ushered in a more articulate political realist explanation of international relations. The publication in 1939 of his book *The Twenty Years' Crisis* opened the first major debate between the liberal utopian and the realist understanding of world politics. Carr considered political realism the more correct and efficient approach to international relations but didn't completely discard integration since he viewed it as a way to promote changes in international relations. He suggested that any political thought must be based on elements of both utopia and reality. In subsequent decades, these two approaches influenced the theoretical approaches to international relations. In practical terms, governments followed foreign policies characterized by a mixture of both theories. Political realist views regarding international relations dominated the East-West rivalry and especially the confrontation between the U.S. and the Soviet Union during the Cold War. Even if the ideological conflict was not as intense in other regions of the world as in Soviet-U.S. relations, political realism still had a stronger influence than liberalism almost everywhere. Western

Europe was an exception. Due to its history of conflicts, Western European countries began following an uncharted course some experts characterized as a common adventure to an unknown future.

After World War II, liberal thoughts regarding international relations survived and emerged in various forms of integration. Securitization of the past and the lessons learned from history influenced the evolution of liberal ideas and policies in Western Europe. David Mitrany, a frequently quoted representative of integration theorists, was a British political scientist who belonged to the functionalist school of integration theory. Mitrany suggested that a peaceful international order could be achieved through cooperation among functional areas of different countries. He viewed the use of old, formal, constitutional ways as an impediment to creating a working international system. Societal links and cooperation among countries would be more efficient. In practical terms, it meant that a solid foundation of peaceful international relations could be built upon people-to-people contacts. Mitrany also expressed an important warning: "The problem of our generation, put very broadly, is how to weld together the common interests of all without interfering unduly with the particular ways of each. ... We have already suggested that not all interests are common to all, and that the common interests do not concern all countries in the same degree." The first example of functional links among Western European countries was



Anti-Brexit protesters display their allegiance to the European Union outside Parliament in London in 2017. EPA

the European Coal and Steel Community.

American political scientist Karl Deutsch, a representative of the transactionalist school of international relations, studied the formation of political community among nations. He concluded that the minimum condition needed to create an international political community was the existence of what he called a “security community.” He identified two kinds of political communities: pluralistic and amalgamated/united. A pluralistic political community can be a security community that is politically fragmented. A united political community can be a federation of states or a nation-state with a central government. European integration started with the creation of a security community. The Brussels Treaty of 1948 and the signing of the North Atlantic Treaty in 1949 were the most important steps in this process.

Deutsch also invested intellectual capital in the identification of possible stages of integration. According to his model, the evolution of modern nation-states can be an example for the development of an international political community, or the emergence of united security communities. The first stage is the establishment of functional links, such as trade, migration, services, military and security cooperation. At the second stage, due to the mutual benefits of collaboration, the intensity and the scope of transactions increase. The third stage is characterized by the development of socio-psychological processes that lead

to the assimilation of peoples and their integration into larger communities. Communication, personal connections and learning about each other is crucial in this process. The fourth stage of integration is the emergence of one political community via assimilation of smaller political communities. The fifth stage is the conclusion of the integration process with the creation of institutions that represent and protect the identity and interests of the international political community. This is the final stage of the emergence of a united security community.

In Deutsch’s view, peaceful change in international relations has its origin in the perception and identification of people. That is why sentimental change precedes institutional change, and social assimilation and community formation precede political amalgamation. Other integration theorists criticized Deutsch for his neglect of international institutions and emphasis on social change as the primary source of political change.

Deutsch’s contemporary, Ernst Haas, also an American political scientist, followed in Mitrany’s footsteps and called his own theory neo-functionalism. In opposition to Deutsch, Haas believed that international institutions have the primary role in the process of integration because they are the entities that can encourage a shift in the cultural orientation and political loyalties that contribute to political unification. Haas’ intention was to give political dynamism to the process of integration by putting the emphasis on

the role of international institutions. The neo-functional theory assumes that with the spread of functional links, and with the extension of the range of international activities, more and more functions will be performed by international authorities. The inclusion of new functional areas sets into motion political processes that generate demand for further steps. National governments face the dilemma of surrendering additional autonomy or risking the achievements the community has attained. Neo-functional theory assumes that political pressure will grow on governments to move toward greater unification. Haas described integration as an intense political process. In this process numerous political actors, while pursuing their own interests, put pressure on one another to move toward policies that are collectively and individually beneficial. In this continuous game of bargaining, there would always be governments that are reluctant to give up additional elements of sovereignty, while others would resist risking the previously achieved level of integration. When Western European integration slowed in the 1970s, theorists lost their enthusiasm for further research into the problems of integration. But the dilemma of setting priorities — whether social or political, emotional or institutional — remained with governments and the bureaucrats in international institutions.

Robert O. Keohane and Joseph S. Nye, well-known representatives of the American neo-liberalist school of international relations theory, introduced the term “trans-governmentalism” in connection with everyday operations of international institutions. With growing interdependence, governments have become more sensitive to foreign developments that might impact the political, economic and social conditions of national societies. They identified two types of transgovernmental behavior, which they thought to be valid for European integration as well.

First, transgovernmental policy coordination takes place when working-level officials of different government bureaucracies communicate informally among themselves. In face-to-face situations, working-level government officials often convey more information than officials working at higher government levels. As working-level meetings become routine and a sense of collegiality develops, a transnational reference group emerges. Second, transgovernmental coalition building takes place when lower levels of national governments attempt to involve lower levels of other governments or transgovernmental institutions to influence the decision-making processes of their own governments. Officials within national governments opt for transgovernmental coalitions when they are unable to get high-level support for solving internationally recognized problems requiring urgent action. The Cold War period recorded a number of arms control and environmental cases involving multilateral diplomacy.

GREAT BRITAIN

Since the late 1940s, European construction has been guided by a mix of the liberal ideas of international relation theory and the political strategies conceived by

French and German politicians. It's difficult to identify which of the two components has been more influential throughout the integration process. Jean Monnet, a principle architect of European integration, was a neoliberal institutionalist with a strong sense of realism. He emphasized the importance of institutions in the solution of common problems. His negotiations were characterized by a great deal of informality and by his political and psychological approach. Monnet's basic idea was to unite people rather than forming a coalition of states. This political objective was a fundamental deviation from the traditional balance of power politics pursued by European states for centuries, according to Colette Mazzucelli in her book *France and Germany at Maastricht*. In this sense, he clearly distanced himself from traditional political realist theory and practice.

The close connection between Mitrany's functional theory and one of the major practical steps of European integration is demonstrated by the creation of the European Coal and Steel Community. In this sense, functionalism as an idea, as a product of the theory of international relations, can be considered as the principal driving force in relation to political strategy. In subsequent years, the relationship between theories and strategic steps in relation to integration seems to have changed. Concepts about integration became the theoretical generalization of practical steps, which took on the primary role. Deutsch's theory about the tempo of community building reflected Monnet's strategic plan concerning the timetable of the practical implementation of ideas driving integration. Haas' neo-functional theory, in fact, constitutes the theoretical generalization of Monnet's suggestion regarding the role of international institutions as forums of common decision-making with a view toward solving common problems.

In the 1950s and 1960s, both in strategic plans and international relation theories, the shape of the five stages of European integration was developed:

1. The establishment of functional links among member countries.
2. An increase in the scope and intensity of transactions among societies.
3. The generation of socio-psychological processes that lead to the assimilation of people and their integration into larger communities.
4. The emergence of one political community via the assimilation of a number of smaller political communities.
5. The creation of institutions that represent and protect the identity and interests of the international political community. This would be the final stage of the emergence of a united security community.

Countries that undergo these five integration stages form a federal state within the EU concept. However, a great deal of uncertainty remains about where the various EU member states stand in relation to these stages. For

From left, German Foreign Minister Hans Dietrich Genscher, Dutch Foreign Minister Hans Van Den Broek, Luxembourg Foreign Minister Jacques Poos and Italian Foreign Minister Gianni De Michelis celebrate the signing of the Maastricht Treaty in the Netherlands in 1992.

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Foreign ministers of the six participating nations sign the Schuman plan treaty in Paris in 1951, a big step in Western Europe's cooperative effort toward economic and defense solidarity. The treaty pooled the coal and steel production of Belgium, France, Italy, Luxembourg, the Netherlands and West Germany.

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sure, substantial progress has been achieved on stages 1 and 2 with the establishment of functional links and the expansion and intensification of cooperation. The assimilation of people and community formation has so far been less successful. Though central EU institutions such as the European Council, the European Parliament and the European Commission issued directives and passed laws with the assumption that progress had been made on stages 3, 4 and 5, it remains questionable whether national societies were able to follow the tempo of common actions by the governments. Additionally, discord among governments has increased recently. Disagreements over new risks in the international environment — in particular the mass movement of people to Europe from conflict-ridden regions — have been intensifying. While the successful securitization of history gave a huge impetus to integration in the 1950s, attempts at common securitization of new security risks and challenges have failed. Different threat perceptions and the diverse needs of identity and sovereignty emerged as an impediment to common securitization of new risks in the 2010s.

For a variety of reasons, Great Britain did not join the initial phase of integration. Though the British Empire suffered a heavy blow in the two world wars, it hoped to preserve its special links and preferential trade relations with the Commonwealth. Great Britain did not want to risk those important economic ties. Another explanation for the British disinterest in European integration was the comparably better shape of the British economy after the war. In 1945, the gross domestic product (GDP) per capita in Great Britain was about 90 percent higher than the average for the six founding members of the European Economic Community (EEC). By 1961, Great Britain realized that economic cooperation inside

the Commonwealth was losing competitiveness, and the Conservative government initiated negotiations for membership with the European Communities. By that time, the difference in per capita GDP between Great Britain and the EEC countries had dropped to 10 percent. After long and difficult negotiations, French President Charles de Gaulle vetoed British membership.

The gap between GDP per capita between EEC countries and Great Britain narrowed further. It stood at 6 percent by 1967 when de Gaulle again vetoed a British application for EEC membership, this one from a Labour government. After de Gaulle's presidency ended in 1969, Great Britain applied for membership for the third time at the initiative of Conservative Prime Minister Edward Heath. French President Georges Pompidou offered his support, and Great Britain joined the EEC in 1973. At the beginning of Britain's membership, the average per capita GDP in the six EEC member states had reached 7 percent higher than in Great Britain.

EEC membership remained controversial between Britain's Conservative and Labour parties and within the parties. The Labour government initiated a referendum in 1975, and 67 percent of the population was in favor. The referendum's outcome did not change the principal division between those wanting to maintain a closer relationship with Europe and those who did not. In 1983, the left wing of the Labour Party, led by Tony Benn and Michael Foot, promised in a manifesto to withdraw from the EEC, which led to the split of the party. In 1988, Prime Minister Margaret Thatcher explained the Conservative view on the EEC in a speech at the College of Europe in Bruges, Belgium. She emphasized that the best way to build a successful European community was to obtain the willing and active cooperation of independent and sovereign



states. She warned that the suppression of nationhood and concentration of power at the center of a European conglomerate would be highly damaging. Thatcher identified the encouragement of enterprise as the most important priority of community policies and warned against the danger of distraction by utopian goals. In her introductory remarks, she warned the audience: “If you believe some of the things said and written about my views on Europe, it must seem rather like inviting Genghis Khan to speak about the virtues of peaceful coexistence.”

Thatcher’s critical views on the EEC were softened somewhat by her successor, John Major, who finally signed the Maastricht Treaty and accepted the idea of political integration. However, the preservation of the sovereignty of the British Parliament remained a matter of constant worry. After 1997, Blair’s Labour government took significant steps (St. Malo Agreement on common defence, signing of the social chapter) that brought Britain closer to the EU. He seriously considered joining the euro zone, but Chancellor Gordon Brown convinced him not to do so. In 2011, the debate on the EU’s budget led to a British veto by Conservative Prime Minister David Cameron, and relations took a downward turn. In 2013, Cameron announced the referendum that took place on June 23, 2016. Results of the vote, with a 72.2 percent turnout, were: 51.9 percent to leave the EU, 48.1 percent to remain.

CONCLUSION

European integration has been an adventure with an unknown future. Securitization of history was a fundamental motive for theoreticians and politicians who laid down the foundations of this complex process and construction. Integration theorists conceived five stages of integration that flow in a logical sequence from the

establishment of functional links to the creation of a political union, practically the federation of European states. The first two stages — the establishment of functional links and the expansion of voluntary interactions by willing states — happened easily and in a comparatively short time. Stages 3 and 4, the evolution of the sense of community on the level of national societies with the involvement of more and more countries, proved to be a much more complicated and difficult task.

With the enlargement of the EU, this task has become even more difficult. Two important questions need to be posed here. First, have the national governments properly informed and educated their populations to become part of this community? Second, have EU institutions followed the evolution of the community carefully, and have they raised an awareness among the people as to what is happening in the EU? The answers to these questions would probably differ substantially country by country.

In one of his lectures, British political scientist Vernon Bogdanor said: “Europe has been a toxic issue in British politics, and it has caused divisions, unlike most issues, it has caused divisions not only between the parties, divisions which perhaps could have been handled, but also deep divisions within the parties. The fundamental question is this: Is Britain part of Europe? Geographically, of course, the answer is ‘yes,’ but what is the political answer? For much of British history the answer is ‘no.’” According to Bogdanor, Great Britain has always had a limited commitment to European integration because its historical experience has been totally different from that of the Continental powers. The evolution of the British political system took more than three centuries, and the adaptation of that system to the EU system proved more difficult than the adaptation of other member states, particularly the founding states. That was the fundamental reason why Great Britain rejected the idea of a federal European state.

One reason why Great Britain did not join European integration at the beginning was its special relationship with many of its former colonies. Over four centuries, Great Britain invested vast resources in the building of its empire and consequently enjoyed the benefits of cheap agricultural imports crucial for the food supply. The British Empire dissolved, but the British Commonwealth survived over the decades. Revitalizing former political and economic ties can be an obvious option for Great Britain after Brexit. Beyond the Commonwealth, new opportunities could be discovered in other regions of the world. For instance, it is highly probable that the U.S.-British relationship will become more important for both countries in the future.

The British exit is not the only unexpected challenge for the EU. Disagreements on new security risks have emerged in recent years. It would be desirable for the remaining member states to come to an agreement regarding the securitization of those new risks. The lessons from the securitization of history of the 1950s offers a useful precedent to follow. □

An Essential MILITARY ROLE

EDITED BY: U.S. Army Col. William Mendel and Dr. Peter McCabe

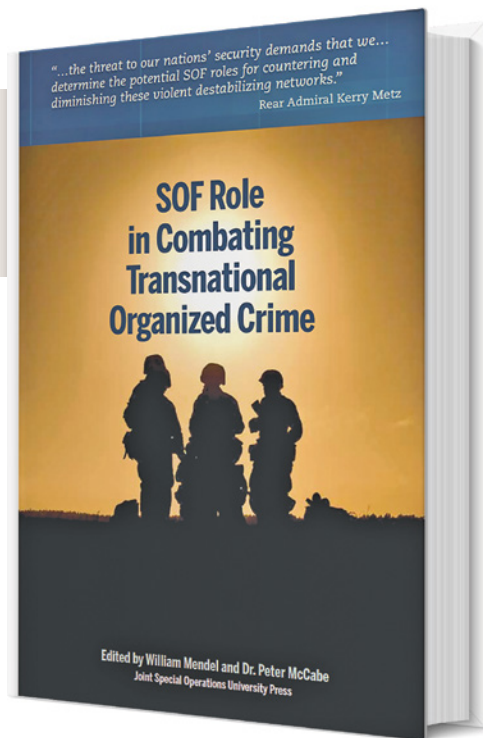
PUBLISHED BY: JSOU Press

REVIEWED BY: *per Concordiam* Staff

It is counterintuitive that nations should employ special operations military forces to combat transnational organized *criminal* activities. Fighting crime is civilian law enforcement's job. It makes better sense, however, when one considers there are more than 52 activities that fall under the rubric of transnational organized crime (TOC) and that operate across borders, oceans and continents. TOC costs from money laundering, drug trafficking and other criminal enterprises stretch thin state resources. Some fragile states simply cannot respond effectively and inadvertently provide sanctuary to what is dubbed the crime-terror-insurgency nexus. In short, TOC is rooted in the preconditions for terrorism and insurgency and is a long-standing threat to the interests of democratic nations.

That's the assessment of retired U.S. Army Col. William Mendel, a senior fellow at Joint Special Operations University (JSOU) in Tampa, Florida, in his introduction to a collection of 12 academic papers. They were presented at a 2015 symposium in Colorado Springs, Colorado, by military and civilian officials from Canada, Mexico and the United States who had gathered to look at TOC on the North American continent. Their findings comprise *SOF Role in Combating Transnational Organized Crime*, edited by Mendel and Dr. Peter McCabe and published in 2016 by JSOU Press. The contributors' conclusions for the use of special operations forces (SOF) assets to assist states' anti-TOC efforts are applicable to nations around the world, especially in the U.S. European Command area of operations.

It is essential to explain why SOF actually fits into fighting TOC, and Rear Adm. Kerry Metz, then commander of Special Operations Command North, provides that rationale in his foreword. He notes, "The nexus between criminal and terrorist networks is significant and evolving." Fighting it, Metz contends, requires collectively exploring regional whole-of-government approaches to determine the potential roles for SOF to counter and diminish such violent destabilizing networks.



The book is organized into three parts — the strategic environment, policy and strategy, and operations — along with a conclusion on SOF roles and future challenges. In the first section, authors examine TOC from a regional perspective, in a seemingly borderless world, in an era of accelerating change, and according to the SOF nexus between transnational criminal organizations and transnational organized crime itself.

The chapters on policy and strategy survey strategic guidance for countering TOC, efforts to combat the financing of terrorist activities, and another nexus, this one between foreign fighters and lone wolf terrorism. In operations, the focus shifts to SOF application in borders and security.

Some contributors' observations may seem all too obvious — and all too true. Mark Hanna, an intelligence officer for transnational threats, related how globalization contributed positively to global commerce, but has also facilitated the conditions where TOC can blossom. He concluded that disrupting a globalized criminal enterprise requires a globalized response, one that governments alone cannot solve.

Dr. Emily Spencer, director of Research and Education at the Canadian Special Operations Command, asserted that "what happens 'over there' more often than not impacts us 'over here,'" because we now live in a virtually borderless world. She suggested that a global SOF network

offers a potential solution to borderless threats. Such a network can aid through SOF's ability to provide governments with dependable, credible and rapidly deployable discreet forces. These can respond to unconventional situations falling outside the capabilities of law enforcement agencies, militaries or other government departments.

Canadian Brig. Gen. Mike Rouleau, then commander of the Canadian Special Operations Command, explained that the traditional view of sovereign states with clear borders retards effective and comprehensive responses to TOC. Some states may even view TOC as benign since, with few exceptions, "TOCs are not interested in taking over the role of the state." This view is misguided, Rouleau added, because TOC efforts to create ungoverned spaces where they can operate freely has corrosive effects on the sustainability of democratic institutions. Once a state recognizes that TOC is destructive to its authority — and survival — it might consider SOF. But, Rouleau cautioned, SOF employment must be part of a combined, joint, inter-agency approach that brings all state power to bear. "Despite the reality that it is best not for the military to lead (and be seen as the 800-pound gorilla in the room), too often, by default, it does."

From there, allies can build off each other's engagements in problem areas in the global SOF network. Such a network, in Rouleau's words, can engender trust, but states being assisted must see themselves as part of the solution. "Very few states are willing to admit they lack the capacity to resolve their own problems." With state buy-in, trust can grow, provided SOF operators are a persistent presence.

Dr. Celina Realuyo, who manages the Combating Transnational Organized Crime program at the William J. Perry Center, is a guest lecturer at the Marshall Center, a JSOU senior fellow and a professor at the U.S. National Defense University in Washington, D.C., explored measures to shut down terrorist financing. She stated that money serves as the oxygen for any licit or illicit activity and is the lifeblood for any TOC group. She recommended use of financial intelligence and investigation tools to detect, disrupt, and dismantle terror networks. She noted an unexpected but constructive side effect — rooting out corruption between government officials and criminal enterprises.

Canadian Professor Christian Leuprecht addressed borders and security. He illustrated a convergence between TOC and terrorism. Terrorists resort to TOC to facilitate their activities while TOC groups resort to terrorist measures to support theirs. These can manifest themselves as cross-border trafficking networks that connect brokers of illicit goods or services to criminal or terrorist groups. SOF's ability to cross borders unimpeded provides an opportunity to infiltrate and disrupt such activities as part of the combined, joint interagency approach.

What they've revealed is assuredly most helpful to efforts to fight TOC, but readers will need to look elsewhere for explicit SOF angles to these counterterrorism operations.

U.S. Northern Command advisor Randy Paul Pearson perhaps recognized this in his essay, "Thoughts on Special Operations Forces Roles in Combating Transnational Organized Crime." He calls the SOF role a "vexing one." He wrote that the very inclusion of the word "crime" in the question would lead one to believe that this is a law enforcement matter, not a military one. But, he added, TOC is rapidly morphing into a challenge that law enforcement agencies cannot address alone.

SOF capabilities, it turns out, are not so incongruous to law enforcement protocols as one might assume. Pearson said SOF capabilities are already integrated into the best practices of business communities, operational law enforcement approaches, and in the routine modern processes of other government agencies. These specialties can be applied to existing problem sets to help align guidance and resources and identify vulnerable nodes, he said. They can protect the good guys and exploit the bad guys and possibly develop new ways to orient all elements of national power to countering the TOC threat.

SOF brings its capabilities and talents to the combined, joint, interagency table for the greater group to select what fits best for them. SOF helps interagency communications, analysis and information sharing. It also helps build a whole-of-government, information-sharing enterprise. However, Pearson assures that it will not cause the militarization of counter-TOC endeavors. "Because SOF remains in support of interagency mission partners, their application against TOC can stay well to the left of a costly full-scale war," he said.

Michael Miklaucic, a frequent Marshall Center lecturer and director of research, information and publications at the Center for Complex Operations at the U.S. National Defense University, pointed out a most unsung virtue of SOF in combined, joint, interagency operations. Many partner states lack a collegial and congenial relationship between their citizens and their own armed forces, which are separated from the general populace to form an isolated community with their own society. "SOF are trained to work with civilians, and tap that strength, working with their counterparts to build skills required to work effectively with civilians," he said.

None of the authors is presenting SOF as a *deus ex machina* to descend from the sky to vanquish TOC entities. Instead, the distinct takeaway from this volume is that because SOF offers a unique yet adaptable skill set, it can serve as a critical element in a comprehensive counter-TOC strategy. In that regard, this book delivers on its promise to survey how SOF's role can be the proverbial "force multiplier" against transnational organized crime. □

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PROGRAM ON APPLIED SECURITY STUDIES (PASS)

The Marshall Center's flagship resident program 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 19-18

Sept. 11 -
Nov. 20, 2019

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

This 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 19-6

Feb. 12 -
Mar. 7, 2019

February							March							July							August							
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24	25	26	27	28			24	25	26	27	28	29	30	31	28	29	30	31				25	26	27	28	29	30	31

PROGRAM ON TERRORISM AND SECURITY STUDIES (PTSS)

This 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 19-7

Mar. 13 -
Apr. 10, 2019

March							April							August							September											
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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 19-2

Dec. 4 - 20, 2018

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SEMINAR ON REGIONAL SECURITY (SRS)

The 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 19-8

Apr. 24 -
May 17, 2019

April						
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SENIOR EXECUTIVE SEMINAR (SES)

This intensive 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 19-14

June 24 - 28, 2019

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