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Old and new in criminally mobile Europe

Petrus C. van Duyne

Europe: a criminal space

For some odd reason Europe is sometimes referred to as “the Old Continent”. This is an ambiguous denotation. Does it mean that Europe has a long, ‘respectable’ history or is she just a stuffy old lady? Well, Europe’s blood-stained history is far from respectable, while all continents have long histories. Moreover, under the broad skirts of that stuffy ‘old lady’ one can observe a bubbling energy of rejuvenating life. But, as is so often the case with bursts of new energy, it is disorderly, challenging existing norms and values while probing the confines of legality. Some may feel uneasy with that, others will call it a ‘threat’.

In the past two decades, a new mobility in the European space developed, partly determined by the post-socialist era, the extension of the EU borders and partly by the attractions of her undeniable affluence and opportunities. This energy does not necessarily find its outlet in law abiding conduct. Why should it? It is in pursuit of immediate gains and satisfaction, of course against certain risks, because for luck-seekers Europe is not a friendly space. Going back in history, it has never been different.

The European space, criss-crossed by national boundaries, has always been a relatively open space, for traders, scholars, investors as well as for out-law mobile fortune hunters. In early modern times, 1500–1600, many adventurers, irrespective of nationality, found an occupation by enlisting in various foreign mercenary armies. Given the often times unpredictable insolvency of the monarchs, they used to compensate their payment arrears by looting the resident population (Parker, 1978). The cover of this volume conveys an impression of what crimes contemporaries experienced at the hands of these adventurers. In the course of the 18th Century, and certainly in the Revolutionary and Napoleonic wars, disciplined standing national armies became the rule (Decat, 2003). For this kind of criminal mobility there was no more place (often literally), or it was channelled overseas towards colonies which

soon covered Africa and Asia. Now the indigenous population could experience the dire consequences of this transferred energy. With the decolonisation all this ended, which does not mean that these dynamics came to a halt too. Also at present, there is much unbounded energy, beyond law and order, looking for opportunities and striving for the same (criminal) aims. Conditions and manifestations have changed, but basically it is still the continuing story of the open European space, now under the metaphoric skirt of that 'old lady'.

Against this background it is remarkable that in the last decade the ongoing manifestations of criminal mobility has so much caught the imagination of policy makers, law enforcement agencies and criminologists as some new phenomenon so that they coined a new phrase: 'transnational organised crime'. But did something really new emerge? Yes and no. From the perspective of the criminal underground market there was no new phenomenon to be covered by the adjective 'transnational'. Crime-entrepreneurs did and still do the usual crime-business, making illicit profits, among others from price differences between countries. So what was a need to coin a new concept? While empirically there may have been little need to do so, this was not the case on the political playing field, the reality of conventions, resolutions and institutions. This reality could use a new concept just as much as a new stimulating drink once could use the name of 'coca-cola'.

The political playing ground on which this all grew up was the United Nations in the 1990s, which in the previous 25 years has been working on international cooperation against organised crime (Williams and Savona, 1996). It installed the Commission on Crime Prevention and Criminal Justice. At its first session, 1992, the Commission stated that the guiding themes would be "national and transnational crime, organised crime, economic crime including money-laundering, and the role of criminal law in the protection of the environment". It is interesting to observe how things begin: 'transnational' slipped in between other terms and aims. Some aims faded away like the protection of the environment (quickly buried), others were overgrown, like 'economic crime', by money laundering. But 'transnational' would remain with all its connotations (Sheptycki, 2003) and would be concatenated to 'organised crime': like the 'coca' was connected to the 'cola', forming an unbeatable political brand.

It soon proved its usefulness, particular in the title of a main event of 1994: the World Ministerial Conference on Organised Transnational Crime held in Naples (Woodiwiss, 2003). It was a memorable event being marred

by a more than symbolic incident: during the second day two gentlemen in black entered the conference room and went straight to the proudly beaming chairman, Silvio Berlusconi. With only a few words they handed him the notification that the Public Prosecution Office of Milan had opened a criminal investigation against him. One could feel the sinister presence of organised crime indeed. But was this also ‘transnational’? Given the very plausible suspicion that mafia money from Sicily has flowed into Berlusconi’s firm Fininvest through secret Swiss bank accounts, it may have deserved the qualification ‘transnational’ (Stille, 2006). Or, if one thinks this too heavy, should one think of a shady European businessman exploiting the criminal opportunities of the local and open European space to his dubious ends. Then it would represent ‘underworld meets upperworld’.

It is an interesting and highly instructive case history, embodying all the threat components of the ‘transnational organised crime’ threat having come true: a suspected person rising to official power and international acceptance through deceit, corruption and laundering, manipulating legislation to fend off the pressure from law enforcement and in the end muzzling the media in a way never seen before in any Member State of the EU. Not only does it epitomize the realisation of menaces, but also the thinness of the political threat rhetoric. All UN and EU documents related to ‘transnational organised crime’ express ‘grave concerns’. However, no concern is observed in the European legal or political space when it comes to a Member State decriminalising aspects of economic crime or easing the fight against organised crime or virtually relinquishing the combat against corruption. This is an interesting situation, deserving a research of its own: are diplomatic considerations prevalent or is the ‘threat rhetoric’ merely theatrical? Whatever, if anyone still wants to make a sour remark about that ‘stuffy old lady’ Europe, just see here her skirt bulging out with naughty criminal energy, national in its origin, transnational in its consequences and always mobile when it concerns the money. And that is what this volume is about.

Cross-border connections and criminal mobility

To understand politics, one must study politicians; to understand ‘organised crime’ one must look at crime-entrepreneurs. This is not a narrow psychological perspective, because as Von Lampe (2007) illustrated in a previous

Colloquium Volume, criminals do not act alone. This is a banal truism if one does not look beyond that and study the actual knowledge and operational skills required for entering an illegal market and for keeping a sizeable flow of contraband going. This is elaborated in *Klaus von Lampe's* chapter on 'transnational organised crime' connecting Eastern and Western Europe concerning the illicit cigarette trade. The author compares the required conditions for becoming involved in wholesale cross-border cigarette smuggling, and two interpretations of 'transnational organised crime' on the one hand, with the entrepreneurial conduct he actually observed in three large scale crime-enterprises. The two potential interpretations are: (1) the transnational mobile probing of profitable new foreign areas; and (2) locally based groups expanding into new foreign areas by establishing cooperative links with fellow criminals in the targeted regions.

However, what did the three crime-entrepreneurs and the network they developed and commanded do when they made their strategic decision to penetrate an unknown foreign territory? Did they travel around to scout it out? No, they stayed at home and did not cross borders. Instead, they recruited other nationals who again recruited compatriots for the execution of specific tasks in the countries they selected for their expanded operations. Only if the handling of the contraband had to be monitored did some member of the home organisation cross borders. This also indicated a weaker bonding and lower levels of trust between the figures within the network than is usually assumed. This could be related to the much less prominent role of ethnic relationships of the nationalities involved: Germany, Bulgaria, Poland and Sweden. Defying the traditional notions from studies on organised crime, they implemented their cross-border strategy, not by creating anything like a transnational group, but by outsourcing and otherwise staying at home.

This finding seems to contradict the generally accepted criminal mobility notion inherent in the meaning of transnational crime. This mobility issue has specifically been researched by *Van Daele* and *Vander Beken* in their study of the so-called 'itinerate crime groups' in Belgium. It is not clear whether these crime groups, usually engaged in property crime (e.g. burglaries) can also be subsumed under the term 'transnational'. They mainly stem from Eastern Europe and – measured in average kilometre distances – are highly mobile. In this regard they differ from the usual local property offender, victimising within a relatively small radius from his residence. This does not mean, of course, that they just roam around haphazardly. As a matter of fact,