

1. INTRODUCTION

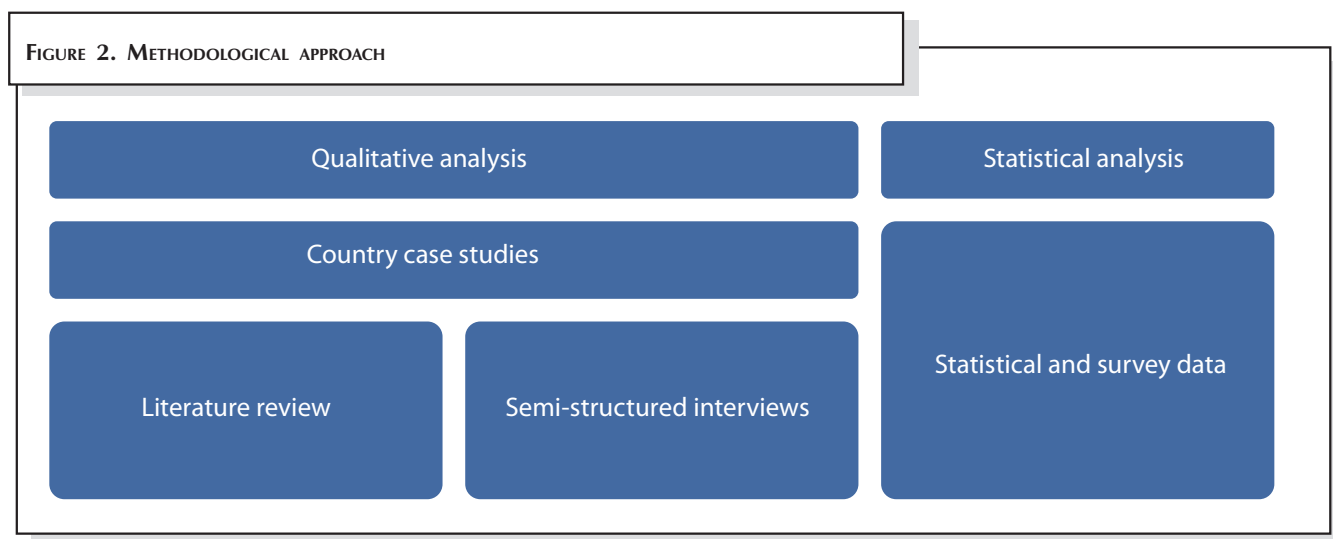
1.1. Purpose and scope of the study

The broad objective of the study is to identify and analyse the links between organised crime and corruption, using supporting empirical evidence on the extent of the linkage between the two phenomena in EU Member States, as well as qualitative analysis with respect to the causes and dynamics behind this relation. The **main objectives** of the study are to:

- Identify the causes and factors which bring about the use of corruption by organised crime within the public and private sectors, as well as the scope and the impact on society and institutions;
- Identify best practices in preventing and countering the collusion between public and private sector officials and organised criminals;
- Drawing on the understanding of the above objectives, identify a framework for a future assessment of trends in the links between corruption and organised crime, as well as for corresponding counter-measures.

1.2. Methodological approach

The methodological approach of this study includes a broad collection of secondary (literature and statistics) and primary data (interviews and field visits), followed by a rigorous quantitative (statistical) and qualitative (software aided) analyses. A more detailed methodology is presented in



The **data collection** for the study was based on four key elements:

- **Literature:** included academic works, government reports on corruption and organised crime; reports by research institutes, international organisations (GRECO, FATF), or private companies. The literature reviewed was in Dutch, Italian, Greek, Bulgarian, French, Spanish, Russian, Serbo-Croatian and English. Media sources in almost all Member State languages were also consulted.
- **Statistical and survey data** of the 105 indicators (from surveys, indexes and statistical data) were assembled and analysed, and 19 of

them were then used for further statistical analysis. (Annex 4). In addition, some MSs provided various types of statistical data.

- **Semi-structured interviews** with law-enforcement, judicial, government officials and private sector representatives, academics, and journalists were carried out in all 27 Member States over the phone or in person. These were expert interviews as the interviewees were asked to provide their expert *opinion* and assessment. In total, 156 interviews were conducted: 69 were face-to-face and 87 interviews were conducted over the telephone. The average length of the phone interviews was approximately one hour, and for the face-to-face interviews about two hours. The questionnaire used is presented in Annex 1.
- Six **country studies (case studies)** were carried out: namely, for the Netherlands, Greece, Italy, Bulgaria, France, and Spain. The countries were selected based on the quantitative and preliminary qualitative analysis. Each case study was based on approximately ten interviews, literature, and media review. The help of locally based academics and researchers was solicited for all studies.

The **data analysis** was based on triangulation of the collected data and combined quantitative and qualitative research:

- **Review of secondary literature:** the approach taken included a review of key academic journals and relevant academic literature, as well as a review of grey academic literature, such as national organised crime reports, or policy analyses published by non-governmental organisations.
- **Statistical analysis:** Based on the 19 selected indicators of corruption and organised crime, the main types of statistical analyses included: (1) a cluster analysis to determine groups of EU member states with similar characteristics related to corruption and organised crime; and (2) multiple regression analysis to determine the ways in which corruption, organised crime and a range of other socio-economic factors were related. The methodology and technical results of the cluster analysis is provided in *Annex 8*. The technical results from the multiple regression analysis will be provided in an annex. The conclusions of both analyses are included in the report.
- **Qualitative analysis** of interviews was aided by the NVivo software.⁷ This analysis included coding, identifying, and distilling common themes in the interviews, and supporting them with evidence from the secondary literature and statistical analysis.

1.3. Data access and representativeness

The methodological approach outlined above, and in particular the reliance on qualitative measures and subjective opinions of a non-representative sample of interviewees is a significant drawback to the methodology about which the authors are well aware.

For this reason this report makes no claim that the particular opinion of an interviewee reflects the real state of affairs in given Member State, or

⁷ A software package for qualitative research, NVivo provides a range of tools for handling data, ideas, information and theories built up from observations, interviews, document analysis, or literature reviews. NVivo supports coding and retrieval of coded material, searching and theorizing, combined with ability to annotate and edit documents. NVivo is designed for methods requiring more flexible development of rich data in dynamic documents, and more subtle ways of linking data to ideas and showing and reflecting on the results (Jupp 2006)

a particular institution. To strengthen this point, the authors have largely avoided making assertions about state of affairs in a Member State, unless interviewees from this Member State and supporting literature agreed on a conclusion.

This point is strengthened further by the fact that throughout the report, the interviews are quoted only by using the country abbreviations. The interviewees were strictly asked to provide their expert opinion and personal observations. Most interviewees stressed the point that their knowledge was solely based on personal experiences, as no systematic studies existed in their institutions or countries.

Nevertheless, the report can make the claims that:

- At the EU level, and in particular in the countries case-studies, there is a higher degree of validity of the results, despite, in most cases, the lack of in-depth empirical studies.
- The opinions provided have a high-degree of professionalism as in every Member State, the leading experts on the subject matter were interviewed.

Even more importantly, since the interviews were **semi-structured, and the questions were open**, a number of issues and topic were brought up by interviewees. The authors are fairly certain many of the same issues could have been observed across the EU, or in some of the other Member States, if a more extensive study were to be carried out. Therefore, one should not conclude that since a corrupt practice or anti-corruption measure is mentioned only by one interviewee, it does not exist elsewhere.

Moreover, it must be noted that the quality of interviews varied. The sensitivity of the issue, and fear or negative consequences prevented many interviewees from being fully forthright. To increase the level of trust, local experts on corruption and organised crime were hired for all case-studies, and on many occasions conducted interviews with individuals with whom bonds of trust already existed. In all countries 'official' and 'unofficial' accounts of the phenomenon were collected.

The collection of data was further complicated by the claim of representatives of some official institutions in Member States that no organised crime exists (CY, FR) or corruption (MT, DK) in their countries, or that organised crime does not use corruption.

1.4. Report structure

The report is organised in five sections:

- The rest of the introduction establishes working definitions of corruption and organised crime in order to delineate the scope of research; the different measurements used to assess corruption and organised crime are discussed; the EU policy context within which the study is placed is described.
- The first chapter outlines evidence from academic and grey literature on the ability of organised crime to use corruption in four different fields: the judiciary, politicians, law-enforcement and the private sector.

- The second chapter of the report begins by outlining the historical, social, economic and demographic factors affecting corruption and organised crime in the EU. The hypothesis that organised crime contributes to higher levels of corruption is tested in the statistical analysis that follows. An attempt is made to cluster Member States in tentative groups determined by the levels of corruption and organised crime, established by statistical analysis.
- The third chapter of the report discusses the vulnerability of public bodies to corruption by organised crime. In particular, the susceptibility to corruption of the political and administrative bodies, the police, the customs and tax authorities and the judiciary are discussed. In each section anti-corruption measures are discussed.
- The fourth chapter analyses the main objectives for criminals to use corruption on the private sector: laundering criminal proceeds, facilitating crimes, or abusing companies. The role of the professional services industry, such as law-firms and accounting firms is discussed. Anti-corruption measures implemented by companies are discussed in brief.
- The fifth chapter provides a different take, as the focus of analysis shifts on to illegal markets. The corruption objectives, mechanisms and institutions targeted by organised crime to facilitate operations in five criminal markets are discussed: cigarette smuggling, prostitution and trafficking in human beings, drugs, extortion and racketeering, and vehicle theft.

Finally, based on the findings of the study, the concluding section addresses recommendations to national governments of MSs and the EU. The annexes provide in-depth studies on six countries, a review of literature on the Western Balkans and Russia, and more detailed explanations regarding the methodology used and the statistical analysis conducted.

1.5. Defining 'organised crime' and 'corruption'

One of the main challenges for the study is to set the working definitions of the terms '**corruption**', and '**organised crime**' and hence the forms and boundaries of their interaction. This is important in order to limit the scope of the research so that it does not extend across all uses of corruption, (e.g. by ordinary citizens), and escape narrow legalistic definitions that ignore more complex criminal connections.

Despite the existence of official definitions at the international level, defining 'organised crime' and 'corruption' within the framework of international studies is a difficult task as legal definitions and cultural perceptions vary across countries.

The starting point is to set the boundaries of the two concepts that fit within **the following logic model:**

- First, we define the range of criminal behaviours and social phenomena which fall under the concept of 'organised crime'. The delineation is important as we have collected quantitative and qualitative evidence about the use of corruption by organised crime only within the limits of this definition.

- Second, we elucidate the range of criminal behaviours commonly defined as ‘corruption’. Here the boundaries will be kept deliberately as broad as possible, in order to identify the full range of corrupting actions employed by organised crime.

1.5.1. Defining organised crime

There are numerous definitions of **organised crime**, which vary widely in their scope and much academic research is focused on the issue of definition (e.g. Fijnaut & Paoli 2004). Over the past decades, academics have conceptualised ‘organised crime’ in terms of groups, networks, as well as ‘enterprise crime’ (Levi 1998). The lack of clear and accepted criteria in defining the term has led to rigorous debates in the field. On the one hand, legal rigidities and strict “black and white” criteria have left little room for nuanced studies (Van Duyne & Van Dijk 2007). On the other hand, definitions, such as ‘serious crime’ developed by the UK Home Affairs Committee (1995) have narrowed the focus, leaving out a wide range of phenomena that from an analytical (social) point of view constitute ‘organised crime’. In some cases the lack of clear definition has led to the broadening of the scope of the concept by policy priorities and political agendas which have indiscriminately added many new criminal activities to its range.

Our working definition of “organised crime” combines the concepts of traditional **‘organised crime’** (e.g. drugs, illegal prostitution, trafficking of human beings, vehicle theft) and **‘white collar crime’** (e.g. financial, tax, VAT, real estate frauds, embezzlement). In either case, our unit of analysis is either the ‘illegal market’⁸ (e.g. the drugs market) or the illegal activity⁹ (e.g. VAT fraud). The focus therefore is on how corruption is used by participants (criminal groups or networks) in the respective illegal market or activity. Throughout the report, unless specifically distinguished, the term ‘organised crime’ is inclusive of white-collar / corporate illicit practices.

This is not a novel definition as some previous studies of organised crime imply this operational duality, which is only performed by the most successful groups (for a clarification of this analytical distinction, see the case study on Italy, or Ruggiero 2002). Indeed, not all criminal organisations manage to establish connections with white collar actors; in fact, most confine their activity to conventional illegal markets. This more focused approach on organised crime will not consider traditional criminal markets unrelated to official actors cooperation / abuse to be part of our research.

⁸ The notion of ‘illegal market’ refers to criminal activities related to the markets for illegal goods (drugs, cigarettes) or services (sex, private protection). The participants in these markets are often ‘disorganised’, including criminal enterprises, legitimate companies, or individuals providing various illegal services to criminal networks.

⁹ The difference with ‘illegal market’ is that it refers to criminal activities for which there is no demand, i.e. these are not market based crimes: various types of financial or credit card frauds and thefts fall under this category.

1.5.2. Defining corruption

A similar logic is applied with regard to our **working definition of corruption**, which excludes administrative and corporate abuse outside the scope of organised criminal activities.

Definitions of corruption employed by established bodies such as the EBRD, the IMF and Transparency International, usually revolve around an understanding of corruption as the abuse of *public* power for *private* profit. According to Rose-Ackerman corruption occurs in the interface of the public and private sectors and involves the inefficient use of resources (1999). Slightly broader definitions of corruption have been offered by Colin Nye, who speaks of corruption as the abuse of public power not solely for private profit or wealth but also for “*status gains*” (Nye 1967), and Khan (1996) who defines corruption as the misuse of public power for motives such as *wealth, power, or status*.

Spencer et al. describe corruption as “many kinds of “irregular” influence, the objective of which is to allow the participants to make profits they are not entitled to, the method being the breaking of internal or external rules” (Spencer et al, 2006). The term “corruption” involves diverse processes which have different meanings within different societies and the concept of corruption does not mean the same thing across jurisdictions. Heidenheimer (1989), therefore, categorises corruption according to social acceptance, positing ‘shades’ of corruption from ‘white’ (socially acceptable) to ‘grey’ to ‘black’ corruption (socially unacceptable).

The complexity of understanding corruption across jurisdictions is in accepting that there are different expectations and traditions, different opportunities and options and different sanctions for violations. Spencer et al. (2006) differentiate between the following levels of corruption:

- systemic, when corruption is incorporated within the entire or particular aspect (e.g. border control) of the rule of law system (multiple institutions: judiciary, police, customs, tax, etc.);
- institutional, where the institution affected is tolerant of corrupt practices;
- individual, where the person is prepared to undertake illegal actions because their employment provides them with an opportunity to exploit their position for gain.

All these levels are relevant when the links between corruption and organised crime are discussed.

While some limit the term ‘corruption’ only to the public sector, private sector corruption will also be considered in this report. Private sector corruption is most often referred to as ‘fraud’. For the purposes of the present report, the focus will be on cases in which **outsiders (criminal groups or companies) corrupt someone within a private firm** in order to facilitate a crime, launder money, or abuse the targeted company in some way. Further aspects of private sector corruption and some of the possibly grey areas are further discussed in the chapter on private sector corruption.

One complex issue that spreads across both definitions ‘corruption’ and ‘organised crime’ is the question of how to treat the direct participation public officials in criminal activities: particularly in cases where they are not simply abusing their ‘public powers’, but engaging in a range of criminal activities, or managing a criminal enterprise. Examples could be:

- cases of police officers running their own prostitution rings or drug-distribution networks;
- politicians covertly controlling companies that engage in criminal behaviour;
- cases where criminals have managed to accumulate sufficient legitimate power than to directly participate in local politics (‘state capture’).

For the purpose of the present report, we have treated such cases as examples of ‘corruption’, even though public officials and organised crime are one and the same.

1.6. Measuring Corruption and Organised Crime

One important aspect of explaining the links between corruption and organised crime involves determining the extent to which the two are interrelated. Measuring how often and where organised crime uses corruption is important, and yet according to some researchers it is challenging, while to others it is even impossible. Despite the lack of universally accepted ways of measuring the two phenomena, there have been multiple attempts to quantify them, as well as a few attempts to even assess the relationship between them.

Corruption is measured in a multitude of ways, and many of them have been criticised and problematised (UNDP 2008). Without going into the details of the debate regarding the advantages and shortcomings of the various methods, it is important to mention that there are different aspects of corruption that could be measured, such as frequency of occurrence, types, costs and effects, contributing factors, or perceptions of corruption. The methods used in measuring corruption range from utilizing focus groups, case-studies, and field observations, to conducting surveys, desk reviews, and assessments of institutions, provisions and practices.

Perception-based surveys are probably the most widely used internationally. Prominent international surveys include the Transparency International Corruption Perception Index, the series of Special Eurobarometer surveys, such as the “Opinions on organised, cross-border crime and corruption” (Eurobarometer 2006) or the “The Attitudes of Europeans towards corruption” (Eurobarometer 2008), and the IBRD / World Bank indicators (Kaufman et al. 2008). Another increasingly used approach to measuring corruption is by quantifying experiences of corruption. The European International Crime Survey (EU ICS), TI’s Global Corruption Barometer and the Eurobarometer survey (2008) are three examples of surveys measuring the experiences of ordinary citizens with corruption.

Private sector corruption is measured via instruments such as TI’s Bribe Payers Index (BPI), or the EBRD / World Banks Business Environment and Enterprise Performance Survey (BEEPS). TI’s BPI ranks 30 leading

exporting countries according to the propensity of firms with headquarters within them to bribe when operating abroad. BEEPS assesses the ease of starting and conducting businesses and the barriers posed by labour issues, unofficial payments, corruption, crime, regulation, legal and judicial issues infrastructure. Surveys of companies, such as the PricewaterhouseCoopers Global Economic Crime Survey, the Kroll Global Fraud Survey, or Ernst and Young's Global Fraud Survey also measure the experiences of companies with corruption and crime.

At the national level, most EU members have not developed specific country based corruption measuring mechanisms and rely on a wide number of international or EU (e.g. Eurobarometer special surveys on corruption) measurement initiatives. In Bulgaria, where corruption has been considered particularly problematic, between 1998 and 2009 an independent Corruption Monitoring System (CMS) was developed by a civil society organisation (the Center for the Study of Democracy), measuring the experiences of companies and citizens with corruption.

Another example is the analytical framework developed by the Swedish International Development Corporation Agency (SIDA), which focuses on understanding a country's political-economic structures and relations and their implications for development priorities. SIDA examines the causes of corruption through analyses of formal and informal power relations and shows how power is distributed in terms of race, gender, age, class, local vs. central, private vs. public. Pilot studies have been conducted in Kenya, Ethiopia, Mali and Burkina Faso (UNDP 2008, p.19).

Some attempts have been made to measure specific types of corruption. Academics have also tried to measure high-level corruption which is often associated with organised crime. Buscaglia and Van Dijk have created a composite index for measuring high-level corruption. This index is based on **perception** indicators which include distortions arising from interest groups, the insulation of policies from pressures by special interest groups, the likelihood of biased judicial rulings, and perceptions of the percentage of the value of public procurement-related contracts paid for bribes as well as of the prevalence of "state capture".

Measuring organised crime has been a deeply contested issue among criminologists. Even assessments that do not claim to offer exact measurement have been under attack. The European Union Organised Crime Threat Assessment (OCTA), prepared by Europol and launched in 2006, does not offer quantifiable measurements. Some Member State governments have also been refining and developing their own approaches to assessing the threat from organised crime. Van Duyne and Van Dijk (2007) have been outspoken critics of SOCA's UK threat assessment of serious organised crime. The Dutch National Threat Assessments for Serious and Organised Crime have attracted attention with their quality, but also criticism.

Since 2004, an FP6-funded research project by the Assessing Organised Crime Research Consortium has been developing a methodology for assessing organised crime utilising a new common European approach.

This consortium has highlighted many of the existing problems and difficulties in reconciling the diverging law-enforcement statistical data and has proposed a new European common approach (NECA). In NECA, the focus has shifted from criminal groups to criminal activities and individual offenders, on to the modus operandi of groups and new methods of primary data gathering.

The only serious survey-based attempt to measure organised crime has been suggested by Jan Van Dijk, who, as noted above, has built upon his work with Buscaglia to create a Composite Organised Crime Index (Van Dijk 2007). Nevertheless, this method has gained little traction as it provides a meta-level measurement and includes some indicators that are quite problematic.

1.7. Policy context

There are numerous international and Member State policies and initiatives aiming to curb both corruption and organised crime. None of them, however, has focused particular measures on the link between the two issues. They are largely treated as separate problems, although on some occasions their interrelatedness is recognized.

The United Nations Convention against Transnational Organised Crime (also known as the Palermo Convention), adopted by General Assembly resolution 55/25 in November 2000, specifically calls for the criminalization of corruption (Art.6) and for the adoption of measures to tackle corruption (Art.7).

The perceived link between corruption and organised crime prompted the UN General Assembly to adopt resolution 55/61 in December of 2000 recognizing that an effective international legal document against corruption, independent of the Convention against Transnational Organised Crime, was necessary. The UN Convention against Corruption adopted consequently declares that States Parties to the convention are “concerned also about the links between corruption and other forms of crime, in particular organised crime and economic crime, including money-laundering”.

The Council of Europe has also acknowledged the existence of links between corruption and organised crime. One of the 20 Guiding Principles for the fight against corruption, adopted in 1997 seeks “to ensure that in every aspect of the fight against corruption, the possible connections with organised crime and money laundering are taken into account”.¹⁰

The link between corruption and organised crime has received some, although not yet sufficient attention at **EU level**. In 2004, Europol recommended that “the vulnerability to corruption of the public and the private sector needs to be properly evaluated... [given that a] clear-cut picture on the use of corruption by OC groups does not exist” (Europol 2004, p.16). Following this recommendation, the issue received a short

¹⁰ Council of Europe: Resolution (97)24 on the 20 Guiding Principles for the fight against corruption 06.11.1997

analysis in Europol's 2007 OCTA report and the Commission in its recent EC (2008) Staff Working Paper explored this topic in more detail.

The lack of information and understanding of the issue is reflected in the fairly limited attention that it has received in EC policy documents and legislation. The Convention on the Fight against Corruption involving Officials of the European Communities or Officials of the Member States of the European Union,¹¹ and the *Convention on the protection of the European Communities financial interests*¹² make little mention of the link. The Council's 1998 Vienna Action Plan¹³ and The Millennium Strategy on the Prevention and Control of Organised Crime,¹⁴ although mentioning corruption, also do not devote particular attention to the link between corruption and organised crime.

In 2003, **Council Framework Decision 2003/568/JHA on combating corruption in the private sector was adopted**, mandating the criminalisation of corruption and establishing that legal, in addition to natural, persons could be held responsible for corruption offenses.

¹¹ Official Journal C 195 25.06.1997

¹² Official Journal C 316, 27.11.1995

¹³ Official Journal C 019, 23/01/1999 p.1-15

¹⁴ Official Journal C 124 of 3.5.2000