High Stakes, Low Strategies: the European Union and the Fight against Transnational Organized Crime in State-building Missions

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Abstract

While being active in state-building operations, the European Union (EU) appears to be increasingly aware of the challenge that organized crime poses for political stability in "fragile states" located along its borders and beyond. Justice and Home Affairs has become one of the fastest-growing domains of EU action, and it has acquired an important external dimension, along with other policy ambits traditionally regarded as domestic—such as immigration, organized crime and terrorism. This article offers a brief overview of the evolution of the EU institutional framework concerned with addressing transnational organized crime. It then delves into EU foreign policy through the exploration of the EU missions to Kosovo and Guinea-Bissau, seeking to illuminate the existence of counter crime strategies. The article offers a preliminary assessment of how the post-Lisbon EU defence and foreign policy is conceptually and operationally equipped to meet the challenge posed by transnational organized crime.

How many projects failed, how many unfulfilled promises, how many broken dreams, how many frustrated hopes…

Newsletter 4, EU SSSR Mission in Guinea-Bissau, (November-December 2009)

Organized crime groups are enterprises embedded in a local social context and often operating on international, sometimes trans-continental scale. They typically respond to multifaceted logics of profit and protection: they offer illicit services, they perform legal and illegal production or distribution activities, they employ coercion to discourage competition, and they enjoy solid connections with administrative and political spheres (Paoli 2009). Non-military threats and non-state actors, such as transnational organized crime, have become a major question for the research and policy agenda on regional crises, peace and stability missions (Buzan 1991; Lipschutz 1995). A growing body of literature looks into the way in which underground, shadow and criminal economies (i.e., the wide gamut of practices and actors that constitute a challenge to the establishment of the rule of law) may compromise the building of sustainable peace and, ultimately, stability (Pugh and Cooper 2005; Heupel 2006).

By the time violent conflicts swept the Balkans, the Black Sea region and the Caucasus, the end of the Cold War had already illustrated the salience of transnational dynamics for international relations (Rosenau 1990). A conceptual renovation was underway in security and strategic studies. Non-military threats were taking centre stage, while cultural, economic and environmental issues came to be part of strategic debates (Williams 2007). European policy-makers embarked upon rethinking international security as something more than the defence of national borders (Coticchia and Ferrari 2009). In a climate characterized by the appearance of ever evolving threat catalogues, Brussels started to conceive of external projection as key to the stability

of EU borders. In other words, it became clear that the first line of security, rather than defence, lies abroad. While such a conceptualization was often underlain by distressingly influential representations of new neighbours as regions chronically infected by malaise to be contained, transnational flows linking Europe's continental core with its Eastern and South-Eastern borderlands in transition often came to be understood in terms of imported risks that were linked to the erosion of consolidated and expected life standards inside the EU's "area of prosperity" (Massari 2003; Kuus 2007). Lack of results in the fight against organized crime during the 1990s (especially in areas such as drug and human trafficking) was acutely perceived inside the EU.[1] For example, the very moment when the EU made its first steps towards enlargement in South-East Europe was contemporaneous with the representation of post-war transitions in the Balkans as the epicentre of "new threats" gaining currency. All of this led to putting international police missions (Bosnia, Kosovo, Albania and the Former Yugoslav Republic of Macedonia) at the top of the agenda.

While assisting in state building and engaging in international interventions, the EU appears to be increasingly aware of the challenge that organized crime poses for socio-economic development and political stability in those externally assisted "fragile states" that are either part of its neighbourhood or affected by its process of enlargement (Wennmann 2011). In this context it comes as no surprise that the area of Justice and Home Affairs (JHA) has become one of the fastest-growing domains of EU action, and that policy ambits traditionally regarded as domestic—such as immigration, organized crime and terrorism—have come to acquire an important external dimension. This article explores how transnational organized crime has become part of the EU agenda, by looking into the way in which specific strategies, resources and tools have been dedicated to fighting such forms of criminal activity in countries of critical importance for the emergence of EU foreign policy. This overview is complemented by the analysis of the counter crime profile of two EU missions (Kosovo and Guinea-Bissau), the aim being a preliminary assessment of how the EU is conceptually and operationally equipped to face the challenge of transnational crime, and—ultimately—sharper focus on the existence of critical dimensions in the EU ambition to act internationally.

To explore how dominant understandings of the threat that transnational forms of organized crime posed to European security have accompanied institutional change in the EU and the sharpening of intervention tools pertaining to different policy domains, one needs to provide a brief account of the evolution of the EU's institutional framework from Maastricht (1991) to Lisbon (2009).

Engaging Transnational Organized Crime: the Emergence of the "External Dimension" [2]

Here, a first aspect stands out: as Brussels started to conceive of external projection as key to the stability of those EU borders and borderlands that had been challenged by mounting geopolitical turbulence (Missiroli 2005), the appreciation of the transnational nature of new threats weakened the traditional distinction between external and domestic in European security thinking (Bigo 1996; Bloackman and Vessels 2009). The European countries' armed forces, whose main rationale during the Cold War had been homeland security, found themselves increasingly dragged into military operations abroad, facing a wide range of menaces to "national security". Commenting on this development Mounier (2008: 47) observes that "Western governments no longer fear military attacks involving tanks and missiles but they are concerned with international terrorism, transnational organized crime and uncontrolled immigration". Ranging from the struggle against

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1   Major difficulties arise in finding a generally accepted definition of transnational organized crime. While lacking a juridical/operational definition of the phenomenon (see Longo 2010), the EU has ratified the UN Convention on Transnational Organized Crime (2000), which defines organized crime as "a structured group of three or more persons, existing for a long period of time and acting in concert with the aim of committing one or more serious crime or offences [...] in order to obtain, directly or indirectly a financial or other material benefit."

organized crime in "failing states" to post-9/11 initiatives aimed at dismantling illicitly funded terrorist networks, the list of military and non-military foreign policy options soon became much wider and more complex than it had ever been. Organized crime was listed as a threat in the new strategic concept that NATO approved in Washington on April 23-24, 1999, as it was celebrating its 40th anniversary while at the same time waging war over the skies of Kosovo and mini-Yugoslavia. A few years later, the European Security Strategy "A Secure Europe in a Better World" (ESS 2003) expressed a distinctive EU view on "new threats", whose nature was understood to be less observable and predictable than traditional menaces. The document, elaborated by the then High Representative for Foreign and Security Policy Javier Solana, lays out the five main threats directly affecting the EU: terrorism, the proliferation of weapons of mass destruction, regional conflicts with an international impact, failed states and organized crime.

To assess the extent to which the EU has been able to develop a shared strategic reflection on how to fight organized crime through its newly established foreign policy instruments, one has to take a step back and reconstruct the ways in which European institutions have first identified and then engaged with the threat posed by transnational crime in Europe itself. While by 2003 transnational organized crime came to be clearly singled out as a fundamental challenge for the security of Europe, the concept of organized crime as a common security concern emerged relatively slowly. The Treaty of Maastricht (1992) considered the adoption of anti-organized crime policies as an EU objective, creating Justice and Home Affairs (JHA) as a Third Pillar. The Schengen Convention (1990) and the Schengen Implementation Agreement (1995) aimed to enhance co-operation between Member States' police forces and judicial systems, especially in the fields of drug trafficking and border control. The Treaty of Amsterdam (1999) transferred the areas of illegal immigration, visa, asylum, and judicial co-operation to the competence of the European Community (First Pillar), thus subtracting them from the area of intergovernmental decision-making. The new EU institutional framework, through Police and Judicial Co-operation in Criminal Matters, started to work on questions such as drug trafficking and transnational organized crime.

It was in this phase that action plans to combat transnational crime made their appearance: new goals and proposals were defined in order to improve information-sharing across borders and to launch joint operations against criminal networks. A growing number of actors, institutions and instruments came to be involved and deployed in counter-crime activities, and a number of contradictions arose. As noted by Schroeder (2009), for several years distinct organizational fields in the EU have been pursuing different goals (e.g., stabilisation linked to foreign policy mechanisms, or counter-crime action and assistance related to distinct JHA dynamics).

At the same time, as Monar suggests (2005), one cannot overlook the importance of the process of "externalisation of hot issues", such as illegal migration or transnational crime, for the evolution of the EU institutional framework.[3] As a result, JHA, the privileged framework under which these actions were undertaken, became one of the fastest-growing domains of EU action (Monar 2006). The efforts made by the EU to export its own institutional settings abroad, promoting border control instruments and enhancing the fight against organized crime, can be seen as the first concrete expression of the development of a proper "JHA external dimension" (also known as JHAE; see Pawlak 2008). At the end JHA eventually acquired both an internal (cooperation, coordination and policy-making) and an external dimension (incorporation of JHA issues in the relations with third countries).

As a matter of fact, distinguishing between the internal and external dimension of EU policies in this domain is difficult, given the transnational nature of the issues in question. In actual and operational terms, internal and external aspects of the Area of Freedom, Security and Justice are closely interwoven. It is no coincidence that in this area the pillar division has often been considered "unhelpful" (Vara 2008). In spite of the political priority given to the fight against organized crime, this policy domain has been constantly characterized by "inherent inefficiencies" (Ladenburger 2008) related to the inter-governmental mode of decision-making. The paradoxes of "pillarisation" stand out rather clearly if one examines, for example, the legal basis of EU missions abroad: some are assigned to the First Pillar, while others to the Second, depending on questionable assumptions regarding the degree of danger to be faced on the ground.

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3   For instance, the 1998 Pre-accession pacts on cooperation against crime targeted at new Member States can be considered the first expression of the externalisation of Justice and Home Affairs (JHA) issues.

Beyond the Pillars:
Organized Crime and EU Missions

In 2008 the "Report on the Implementation of the ESS" put distinctive emphasis on the salience of exporting security strategies beyond EU borders, preventing existing security challenges from becoming sources of armed conflict. In such perspective the combination between different political, diplomatic, military and development instruments was understood to be imperative. At the same time, however, the Report admitted that with specific regard to organized crime progress had been "slow and incomplete". Thus, while European strategic documents tended to underline the perception of transnational crime as a vital threat to the security of the EU, one could also register widespread awareness of how elusive had proven to be the actual results achieved in this field over the two decades that followed the end of the Cold War. Given the salience attached to it, and considering the multidimensional nature of the phenomenon, the challenge represented by transnational organized crime can probably be seen as a test case for assessing how the multifaceted (pillarised and cross-pillarised) EU institutional framework has dealt with international security issues.

The entry into force of the Lisbon Treaty on 1 December 2009, altered the EU architecture, and represented the turning of a page in several policy domains. Since 2009 the EU has made steps towards a better definition of actors and institutional settings dealing with its security. The overcoming of the pillar-system goes hand in hand with the expectations of greater coherence through a new Common Security and Defence Policy (CSDP). Under Lisbon policies concerning the Area of Freedom, Security and Justice (ex Pillars One and Three) are blended together in a chapter where majority voting becomes the rule. Thus, the decision-making process regarding police and judicial cooperation in fighting organized crime loses its intergovernmental character. In addition, Lisbon opens up new opportunities in terms of authorities and agencies responsible for countering transnational organized crime (Europol, Eurojust, OLAF, European Public Prosecutor).

The communitarisation of Pillar Three has been welcomed as a significant achievement. Some authors highlight the importance of the process of supranationalisation of criminal law as well as the inclusion of new specific areas (i.e., the fight against money laundering) into the supranational level (Herlin-Karnell 2008; Blockmans and Wessel 2009). By contrast, other commentators lay emphasis on the existence of several forms of derogation, as an illustration of the everlasting strength of the intergovernmental approach. The Lisbon Treaty, they point out, does not include systematic regulation of external action in relation to the area of freedom, security and justice, which is crucial for fighting transnational organized crime (Vara 2008). The aim of domestic security can be pursued in the supranational framework, while the intergovernmental regime still dominates the realm of external security.

According to De Capitani and Ferraro (2011), the steady communitarisation of the policies related to border control, visas and migration, which started with the Amsterdam Treaty have brought about a form of articulate interdependence on different levels: international agreements, European agencies, legislative harmonisation and a stable network for information sharing. However, while Schengen cooperation was gradually communitarised, the intergovernmental regime still shaped European security and defence policy. Therefore the coordination mechanisms between the JHA "policy universe" and the CSFP domain are crucial. Indeed, the Council recommended more synergies, especially in regions that are of paramount importance for EU security (Council of the European Union 2010).

Organized crime related issues are increasingly discussed in EU dialogues with third countries and regional organizations. Large portions of such issues are being incorporated in the evolution of the EU's Security and Defence policy, through which the EU seeks to better define and enhance its global role. Thus, while originating within Pillar Three, those operational categories that define the EU's commitment to combating organized crime can be said to have progressively infiltrated the area of foreign and security policy (Pillar Two).

The ESDP came into existence as an instrument to undertake all the conflict-prevention and crisis-management missions defined by the Petersberg tasks through both military and civilian instruments. The Petersberg tasks, defined by Western European Union in 1992 and then incorporated in the Treaty of Amsterdam, contributed to the transformation of those European defence structures that had been developed during the Cold War into a new security scenario, where rapidly deployable forces had been needed. Thus conflict prevention was incorporated within the crucial aims of the EU. The political commitment necessary to implement the ESDP emerged at EU level at the Cologne European Summit in 1999; in Cologne 15 countries underwrote

the agreement that had been reached a few months earlier during the Franco-British Saint-Malo bilateral summit on the main objectives of the ESDP.

After the Councils of Helsinki (1999) and Feira (2000), the key focus of foreign and security policy shifted from traditional military missions to comprehensive crisis management. The Feira Council, which established that the development of the rule of law in countries emerging from armed conflicts should become a priority for EU external action[4], proposed a specification of civilian aspects of EU crisis management. These were thereafter distinguished as police, rule of law, civilian administration and civil protection (da Feira 2000). A year later, in the "EU Programme for the Prevention of Violent Conflict" security sector reform (SSR) was added as an important element for crisis management (Weiler 2009).

The vast majority of the ESDP missions (termed CSDP after the Lisbon Treaty) deployed by the EU since 2003 have been civilian operations. This circumstance illustrates the central role of the civilian component in external security policies. In addition, it shows how the principles elaborated in the 1990s for "domestic" purposes have been moved to the area of external relations, especially on issues related to terrorism and illicit trafficking. Interestingly, among the critical aspects that were recalled by the Action Plan for Civilian Aspects of ESDP (2004), one finds the need for improving coherence between ESDP and counter crime strategies.[5]

According to the "Lessons and Best Practices Report 2009", the EU has made substantial progress in setting up and conducting over a dozen civilian CSDP missions (EU Common Security and Defence Policy 2009). Nevertheless, critical aspects emerge as well, as highlighted by the "Action Plan for Civilian Aspects of ESDP" of 2004, which points to a need for improving coherence between ESDP and counter crime strategies. The Foreign Affairs Council Meeting (26 April 2010), recalls the need for "further strengthening the coordination, exchange of information and cooperation between CSDP missions and all the relevant JHA actors". In particular, the Council stresses the role of several CSDP missions,

which "contribute to EU internal security by supporting the fight against transnational crime and by building capacities in the field of international legal cooperation."[6] The 2010 Civilian CSDP Lessons Report highlights the need for better integrating the missions into overall EU policy towards the host-country and region. In this context, close cooperation with the Freedom, Security and Justice Area is described as a measure required to strengthen EU operations.

Summing up, the EU has acquired a multidimensional approach to security, focusing also on non-military threats. The relevance of the "phantom menace" posed by organized crime has emerged clearly after the Treaty of Maastricht, playing a crucial role in the European Security Strategy. Several actors, institutions and instruments have been involved and deployed by the EU in counter-crime activity. Civilian Crisis Management and JHAE are key for the EU to tackle transnational threats such as organized crime. As the Office of the Spokesperson for the High Representative for CFSP confirms, "there is operational consensus on fighting against organized crime in the missions which have identified this as one of their priorities. It is stated in their CONOPS (Concept of Operations) and OPLAN's (Operation Plan)."[7] The next section, which rests on primary and secondary sources, will put two cases (Kosovo and Guinea-Bissau) under scrutiny, with the aim to offer a more detailed overview of the foreign policy instruments that are used by the EU in the fight against organized crime along its turbulent borderlands and beyond. In spite of widely differing aspects of size, structure and regional location, the two missions under scrutiny allow a better understanding of how EU efforts to address transnational crime are evolving.

Along the "Balkan Route": the Case of EULEX

The independence proclaimed on 17 February 2008 marked the beginning of a new phase in the troubled history of Kosovo. Following the armed hostilities of 1998-99, Kosovo had been transformed into a de facto international protectorate under the administration of the United Nations (UNMIK). At the time of independence UNMIK intelligence sources considered organized

4   The European Council of Santa Maria de Feira in 2000 represented a turning point for the development of the JHIAE. The main results of the meeting were the use of police and justice cooperation instruments in crisis regions, the external dimension for migration policy, the growing role of Europol in the fight against organized crime and terrorism.

5   The Action Plan was followed by a Civilian Capabilities Commitment Conference in November 2004 and later by the agreement on the 2008 Civilian Headline Goal. Member states further established a Committee for Civilian Aspects of Crisis Management, a Civil-Military Cell, and a European Police College (CEPOL).

6   Foreign Affairs Council Meeting (26 April 2010).

7   Authors' interview with the Office of the spokesperson for the High Representative for CFSP (July 2010). We wish to thank Mr. Juri Lass for managing the interview.

crime "a serious threat to Kosovo", and Western intelligence reports almost invariably defined organized crime as "a threat to Kosovo's society", making no display of optimism about ongoing trends. Kosovo's illicit sector proved to be particularly resilient, molded as it was by a history of survival and resistance along informal channels and transnational illicit trade. Trans-border crime played a significant role in fuelling geopolitical dynamics of destabilization. Central to these dynamics were smuggling activities through the so-called "Balkan route", which connected Turkey to Western Europe via Bulgaria and former Yugoslav territories: the "Balkan route" strictly interacted with changes in the Balkan war fronts throughout the 1990s (Strazzari 2003; Chassagne 2004). Undisclosed EU reports dating from 2009 still mentioned that approximately 40 per cent of narcotics entering Europe transits from Kosovo, and that out of this 40 per cent almost half is controlled by criminal groups based in Kosovo, and that they handle a business worth approximately 3 billion Euros. [8]

UNMIK stood out among other international missions thanks to the creation of a dedicated capacity to counter organized crime. Far from being part of the original mandate, responsibilities were developed under UNMIK's rule-of-law assistance mandate. Still, the process was extremely lengthy and cumbersome. It was only in 2002 that an investigative unit such as the Kosovo Organized Crime Bureau (KOCB, which in 2006 became the Directorate of Organized Crime, or DOC) was created. Only in July 2003 did international efforts succeed in inaugurating a new provisional criminal code, as well as a new criminal procedure code. The first specific steps in tackling corruption, financial fraud and money laundering were taken as late as 2004 with the creation of a Financial Intelligence Center. One year later, a Law on Corruption and Money Laundering was passed (Stefanova 2004). In overall terms, UNMIK's strategy against organized crime can be described as following four lines: reform of applicable law, building of police capacities, integration of local police, and cooperation with other law-enforcement agencies, such as NATO's KFOR mission. As with the other organizations set by UNMIK, this apparatus of bodies and practices was gradually transferred under local Kosovo authorities. [9]

Throughout the years of UN administration, the EU's preeminent role was one of coordinating initiatives for economic reconstruction and development, along a neoliberal trajectory whose outcomes were very much questioned by the time this mandate was ended (Strazzari 2008b). Be that as it may, by 2008 the EU was able to undertake a different type of mission, tackling issues that were perceived to lie at the core of the problem. The EU Rule of Law Mission in Kosovo (EULEX) is the largest CSDP mission deployed to date. It was established in February 2008 by the European Council, as negotiations on the status of Kosovo were breaking down, and Kosovo was heading towards unilateral independence EULEX (2008). The mandate of EULEX is to assist judicial and law enforcement agencies in promoting rule-of-law reforms, through monitoring, mentoring and advising (MMA) local institutions, while retaining residual executive functions. [10] Fighting organized crime is conceived by the EU as a premise to establishing a working rule-of-law system in Kosovo. Somewhat in continuity with UNMIK, EULEX continued to advise the Kosovo authorities: EULEX engaged in closely monitoring and advising Kosovo's authorities on the drafting of strategies on organized crime, counter-narcotics, counterterrorism, and integrated border management, as well as on judicial reform and senior public appointments. The counter crime mission of EULEX spans across the entire spectrum of activities that are carried out by its Police Component, its Justice Component, and its Customs Component.

The Council appears to be officially satisfied with the mission's efforts (Council of the European Union 2010). The coordination between the EULEX Customs Officer and the members of Kosovo Customs and Kosovo Po-

8   Authors' interview with EULEX Police officer, Prishtina 11 February 2010

9   Despite the hectic activities of intelligence agencies in Kosovo, which kept checking organized crime at the operational level, counter-crime activities have been unable to expose the existence of links with politics. Furthermore, for all the evidence, stemming from investigations conducted in EU countries, that Ko-

sovo is a crucial site for drug smuggling, no major seizures were on record in the region. Organized crime in Kosovo was an extremely sensitive topic while sovereignty matters were under discussion on international diplomacy tables. Within the imminence of independence UN reports, they did not mention the term "organized crime" (Report on UNMIK 2007). Data concerning arrests, trials and seizures were not willingly disclosed by international and EU police officers in Prishtina. Likewise, data regarding Kosovo contained in the reports on the Balkans issued by the Vienna-based UN Office on Crime and Drugs are rather elusive (UNODC 2008).

10   As stressed by the Head of EULEX Xavier Bout de Marnhac "The Mission uses its executive mandate in order to make arrests, investigate, prosecute, sentence suspects and conduct operations in the area of forensic medicine and witness protection. In addition to the executive mandate the Mission is also tasked to foster and assist the Kosovo justice system as it strives to an end-state of being sustainable, transparent, accountable, multiethnic and free from any political interference, all in accordance with European best practices and standards" (EULEX 2011: 4).

lice is considered a positive example of coordination in anti-organized crime activities.[11] The main goal of the agreement signed by EULEX and the Kosovo Ministry of Economy and Finance in December 2009 was to create joint teams between the EULEX Police Executive Department (PED) and the ministry, promoting more intense exchange information and providing EULEX executive police units with instruments to properly investigate issues such as smuggling or corruption. Agreements were signed with EUROPOL for exchanging strategic data. Along similar lines the mission established a number of technical working arrangements with surrounding countries for information exchange. Likewise, technical arrangements with financial intelligence units in a number of countries were concluded, and Kosovo authorities were encouraged and assisted in the development of memoranda of understanding with surrounding countries in organized crime-related topics.

The EULEX Programme Report 2011 provides useful benchmarking against the baseline that was drawn in 2009, at the time in which the operation became operational. The results vary considerably depending on the rule-of-law specific area. If positive outcomes were recorded mainly for Kosovo police (e.g., organizational restructuring) and customs (especially the modernization of the agency), in the justice system area, notwithstanding some signs of progress such as the adoption of a new set of laws that could enhance the capacities of local councils), several goals were still beyond reach (e.g., the ineffectiveness of the witness protection system, or the improvement of the degree of enforcement of judicial decisions). As the report itself highlights, "the perception of the public is still that of a weak system, polluted by cases of corruption and subjected to political or otherwise external pressures".

Overall, EULEX is far from being immune to some of the key dilemmas experienced by UNMIK in tackling organized crime. Concrete results, measured in illicit goods seizures and arrests of prominent criminal entrepreneurs, have proven rather elusive. To date, cases of incrimination for organized crime are very few, while the leaking of Western intelligence reports on the involvement of top Kosovo politicians in transnational organized crime activities keeps casting dark shadows on the country (for example, Lewis 2011). Among the setbacks which are identified by EULEX officers when asked about the difficulty in carrying out counter-crime activities in Kosovo one may list the weakness of the link between prosecutors and police; the difficult coordination between Kosovo ministries (due to the fact that each of them often acts as the private domain of a given political party); the difficulty in retrieving reliable data from border and custom control for cross-analysis and the ineffectiveness of the witness protection system. As with every mission that is heavily reliant on local ownership, limits here appear also in the "absorption capacity" on the part of local authorities. Yet, if one looks for instance at Kosovo's judicial system—by far the weakest point—problems lie also in the manner in which the international community (not necessarily EULEX itself) has been acting. [12]

Kosovo's complex and unstable political scenario has hindered the enhancing of regional cooperation in the fight against organized crime and trafficking. In 2009, for example, EULEX signed a protocol with Serbia's interior ministry creating joint teams between the EULEX Police Executive Department and the ministry to exchange information on customs, tax and treasury records. This agreement triggered angered reactions among Kosovo Albanians, who saw the agreement as a violation of Kosovo's sovereignty (Foniqi-Kabashi 2009). While tensions over North Kosovo escalated in episodes of violent collision during 2011, collusive forms of smuggling in this area were on the rise (Carvajal 2011).

EULEX officers are aware that obtaining results by hitting high-level organized crime profiles, would have a strategic value, and send the right message about the possibility of establishing the rule of law in Kosovo. Yet, to reach higher levels of performance in this field, EULEX should lay more emphasis on the executive side of its mandate, which may spark controversy given the nature of its key commitment to strengthening Kosovo's rule of law through assisting local authorities in taking the lead and take action. Furthermore, engagement in investigating a large number of high profile organized crime and corruption cases, both on the police side but also on the side of the Prosecutor directing local police investigations, even when leading to an immediate increase in satisfaction levels amongst the general population, does raise high expectations; momentum needs to be maintained through successful prosecutions, and

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11   Authors' interview with the Office of the spokesperson for the High Representative for CFSP (July 2010)

12   For example, the process of re-appointment of judges on the part of the Independent Judicial and Prosecutorial Commission—a US-EU-backed autonomous body of the Kosovo Judicial Council established for the purpose of conducting comprehensive, Kosovo-wide review of the suitability of all applicants for permanent appointment as judges and prosecutors in Kosovo has been slow and falls below expectations.

this often proves to be difficult. Finally, and perhaps most importantly, problems related to political stability loom upon the horizon; effective, unconditional action is likely to affect the political level and this would not go without consequences, also given the weakness and permeability of new institutions vis-à-vis political and clientelist dynamics.

No publicly disclosed document can be used to bring evidence of the existence of a comprehensive strategy for tackling organized crime in Kosovo. EULEX does have a specific "Organized Crime Strategy" which is an Annex in the mission OPLAN. (This is a "RESTREINT UE" document and, therefore, not releasable.)[13] EULEX officers confirm that elements of a broad, holistic, multi-sector strategy that address strategic, operational and tactical levels are shared at "appropriate operational level". The strategy recognises that organized crime is a stated priority of the EU, and takes into account the Guidelines and Recommendations for Civilian Crisis Management Missions that regard assistance to a host country in the fight against organized crime. Organized crime is also a stated priority of the Kosovo government, who have developed a "National Strategy and Action Plan against Organized Crime (Ministry of Internal Affairs of the Republic of Kosovo 2009), a document that identifies the different roles of the various actors, including EULEX itself, in its executive or strengthening mandate. The basic understanding that emerges from conversations with EULEX officers is that while Kosovo authorities made some progress, limits are still evident, and the international community is therefore to take a residual role, both in terms of "monitoring, mentoring, and advising" (i.e. of indirect strengthening) and in executive terms (i.e., of direct action).[14] From a policing perspective, one can speak of limited outcomes in relation to the strengthening mandate. As of 2010, one could record widespread recognition of a need to assist in the

development of intelligence-led policing (e.g., enhancing the role of the Directorate of Criminal Analysis) and the Directorate of Organized Crime (Investigations).
EULEX provides an illustration of how and to what extent European operations may support local JHA systems. As noted by Trauner: "[the support to JHA systems] particularly appeals to policy areas in which adjustment to the EU has not implied difficult reform efforts (such as, for instance, the technical upgrading of border control equipment). The problem for the EU has related to the capacity of inducing changes in areas in which real (and, hence, painful) reform steps were expected or considered necessary" (2009: 74). The paradoxical absence of relevant smuggling cases reported in Kosovo can be offered as evidence of what, following Trauner, one may call a "limited EU capacity of inducing change". Missions prove to be more efficient in improving police or border control and customs equipment than in fostering effective judicial reform. In other words, technically conceived forms of capacity building and cooperation between executive state officials are the area that carries much of the water. Mounier highlights how "efficiency of the security apparatus tends to take precedence over good governance principles" (2008: 54). Domestic criminal justice systems and the judiciary as a whole are considerably weaker in their capabilities than the technically upheld regional police forces.

Along the "African Route": the Case of EU SSR Guinea-Bissau

The increasingly evident role of West Africa as a transit and storage region for illicit commodities heading from South America to Europe has caused deep concern in the international community. According to a UNODC assessment dated 2008, one-fourth of the cocaine consumed annually in Europe would be passing through the so-called "African Route".[15] The seizures made in West Africa over recent years confirm the prominent role this region plays as a hub for drug trafficking. The UNODC reports that 48 tons of cocaine have been confiscated in Africa between 2005 and 2008. By contrast, in the period from 1998-2002, seizures had rarely exceeded one ton annually. This seems to indicate that a massive shift occurred. There are several possible explanations for

13   Much of EULEX Operation Plan belongs to the category of documents that are categorized as "Restreint UE", due to the fact that public access may "seriously prejudice the European Union's international relations by revealing in detail the steps being taken by the European Union in circumstances which have a high political impact in the whole area". See "Reply Adopted by the Council to Confirmatory Application 08/c/01/09 made by Ms Kalliopi Stathopoulou by e-mail on 30 March 2009". Available at: http://register.consilium.europa.eu/pdf/lv/09/st08/st08315.lv09.pdf (Accessed: December, 2011).

14   Authors' interview with EULEX officers. Prishtina, 10 February 2010. While the Kosovo Police by the time the Kosovo independence was proclaimed had already taken the lead in a broad area of activities related to fighting organized crime, the UNMIK International Investigation Unit was not dissolved, and kept carrying out in certain areas executive criminal investigations without the assistance of KPS officers.

15   The Europol (2007) called "Africa route" one of the main maritime paths for sending cocaine to Europe: from South America, via West Africa, to Spain and Portugal. It is estimated that between 46 tons and as much as 300 metric tons of cocaine bound for Europe transit West Africa annually (UNODC, 2008).

the development of this route across the African coast. Brombacher and Maihold (2009) emphasize a combination of elements that has fostered the drug business in the region: a growing demand for cocaine in Europe while the US market would have been contracting; tighter controls on traditional routes (the Balkans and Central America), and ideal conditions for undertaking smuggling in West Africa. According to the European Monitoring Centre for Drug Addition (2008), the "Africa Route" takes advantage of local political and economic vulnerabilities, starting with the poor judicial and law enforcement systems of West African countries.

In this context, Guinea-Bissau is widely considered a major international hub for cocaine smuggling (see Figure 1). The country has earned the negative reputation of Africa's first narco-state. The report of the Secretary-General on the United Nations Office for West Africa (2008) highlights the existence of evidence of growing influence by Colombian and Venezuelan gangs active in the country. The deep political crisis of 2009 decapitated top-level state authorities, raising concern over the country's political situation.[16] The UNODC report on West Africa (2008) asked Guinea-Bissau to fight harder against cocaine trafficking in its territory, describing the country as a strategic sub-regional route for drug transport, repackaging and distribution (Rastello 2009). Cargo ships, fishing boats and aircrafts are the main instruments used by smugglers for reaching African shores from South America (Griffiths and Bromley 2009).

Many elements have contributed to make Guinea-Bissau so significant within the "African Route". First of all, cocaine trafficking is facilitated by geographical elements such as the presence of uninhabited islands in the archipelago and dozens of colonial era airstrips. Secondly, the profound weakness of the political and institutional system has affected the overall level of corruption, thus promoting domestic instability. Thirdly, Guinea-Bissau lacks the effective capacity to counter trafficking: the national police have been highly under-funded and ill-equipped, the judiciary is deeply under-resourced, and the army has reportedly been heavily involved in the illicit trade. Brombacher and Maihold claim that "one hundred kilos of pure cocaine, dumped on a beach in Guinea-Bissau, would have a market value in Europe that is equivalent to all the development aid
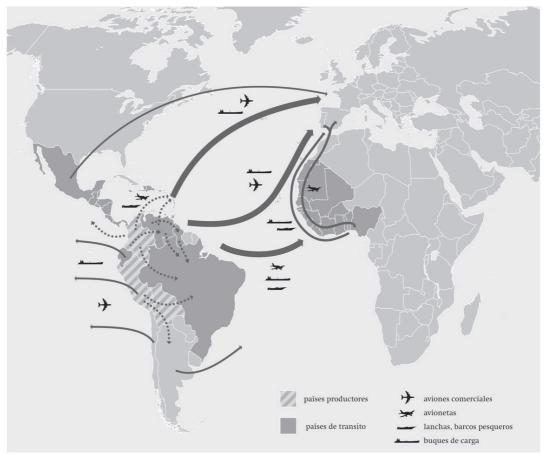
that the country receives in a year" (2009: 13). For the EU, whose domestic cocaine market is assessed to be expanding, the development of a narco-state in a crucial cocaine smuggling transit area is a significant threat. Only if the seizures take place closer to the consumer than to the producer, can the anti-drug policy effectively influence the final price, and affect market dynamics. In addition to considerations regarding West Africa's regional stability (and colonial legacies), it is in the interest of the EU to avoid developing territories with weak state-structures where organized crime can easily expand drug trafficking and other illicit activities. To address these problems, the EU Drugs Action Plan 2009-2012 provides instruments through a variety of projects, promotion of regional and intra-regional cooperation, and intensification of financial support. The Praia Action Plan (2008) provides the political framework of the EU-ECOWAS technical cooperation on drug trafficking in West Africa. Seven EU Member States signed a formal treaty to set up the Maritime Analysis and Operations Centre–Narcotics (MAOC-N) in Lisbon, Portugal in September 2007; a few months later France launched another anti-drug coordination centre focused specifically on maritime drug trafficking in the Mediterranean.

Despite these efforts, the poor law enforcement structures that characterize many West African countries is such that more direct forms of intervention along the drug trafficking routes have been considered. Promoting better control of local territories, containing political instability, and countering smuggling and corruption are all strategic aims for European security: the menace caused by criminal gangs hijacking fragile state structures, is not limited to cocaine. A Sahel route has emerged as a corridor used by local rebels, bandits and terrorist formations (Strazzari and Tholens 2009). Guinea-Bissau is considered by the EU a crucial country for the stabilization of the whole West Africa Region: "an instable WA is the perfect ground for organized criminal groups to spread and increase their trafficking in the EU."[17] The EU-Africa Lisbon Summit (2007) adopted the "Joint EU-Africa Strategy" based on the promotion of peace, security and stability. Due to the massive impact of cocaine smuggling on governance in West Africa, the requests for economic and technical assistance have been pressing. Thus, in June 2008, the EU, in partnership with the Guinea-Bissau authorities, launched the "Security Sector Reform (SSR) Mission" (Council of

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16   In March 2009, Military Chief Tagme na Wai was killed in explosion in its headquarter while President Vieira was shot dead hours later by soldiers loyal to na Wai. See, among others the International Crisis Group report. Available at: http://www.crisisgroup.org/en/regions/africa/west-africa/guinea-bissau/B061-guinea-bissau-beyond-rule-of-the-gun.aspx (Accessed: November, 2011).

17   Authors' interview with the Office of the spokesperson for the High Representative for CFSP (July 2010).

the European Union 2008). After two years, the SSR Mission, which was endowed with no executive powers[18], closed down on 30 September 2010.

to continue the CSDP presence in the Country." [19] After the mutiny of April 2010, when soldiers arrested Prime Minister Carlos Gomes Junior and replaced the chief of

▨ países productores	✈ aviones comerciales
▨ países de transito	✈ avionetas
	⚊ lanchas, barcos pesqueros
	⛴ buques de carga

Source: Brombacher and Maihold (2009)

The EU mission in support of the Security Sector Reform (SSR) in Guinea-Bissau allows the description of EU strategies and practices in SSR, assessing how and to what degree the ESDP/CSDP is conceptually and operationally equipped to meet the "new threats". According to the official documents, the mission has achieved its mandate; it has "assisted local authorities at strategic level to develop adequate legal frameworks and basic, organic laws were prepared for the armed forces and police" (European Union 2010). The legal frameworks of the SSR have been prepared and approved by the local authorities. However, the implementation of the SSR and its legal framework was hindered by the "unfulfilled conditions set by the EU Member States in order

the armed forces, the EU expressed its concern explicitly (Lopez 2010); the restoration of constitutional order was considered by Brussels as the necessary condition under which the CSDP mission could be fulfilled. Due to the unabashed lack of respect for basic rule of law standards, the EU announced it was ending (the/its) mission to reform local security forces (European Union 2010).

The EU initially conceived the SSR concept as a task in which development, political stability, and security were consistently linked. Political instability has affected Guinea-Bissau for decades. At the beginning of the EU mission (which was undertaken within the ESDP framework), the country was facing various problems: corruption, military tension, poor infrastructure, economic crisis, inefficient legal systems, and lack of access to clean water, health and education. The defence sec-

18   Due to the fact that the mission had no executive powers there was no operational cooperation with the local army nor with the security forces on crime contrast. The only form of cooperation was at a strategic level with the security forces.

19   Authors' interview with the Office of the Spokesperson for the High Representative for CFSP (July 2010).

tor was composed of veterans, militias and paramilitary elements whose level of training and equipment was dramatically low (Wailer 2009). Moreover, coordination among several security bodies (e.g., the Public Order Police, Judiciary Police, Border Guards, Immigration Services, Maritime Police, Financial Oversight Services and State Security Information Services), was extremely challenging. In Guinea-Bissau, nine different police bodies were working for five different ministers. The EU mission focused on military, police and judicial reform. As noted by Javier Solana, the goal was to provide advice and assistance to local authorities in order to "consolidate the rule of law, as well as security and stability, in the country" (Solana 2008). The efforts aimed at creating conditions for the implementation of the national security sector reform strategy.[20] The operation is the first example of a civil-military ESDP mission; it brings together, with a "holistic approach", the sectors of defence, justice and police. [21]

On the ground, the main priority was to avoid the criminal capture of state structures, a situation that would see the emergence of a prototypical narco-state in the hands of Latin American cartels. The shortage in human and material resources (i.e., no navy to patrol its waters) made this scenario likely. Thus, European advisors worked with the armed forces, the Judicial Police and the Public Order Police. The main objectives of the operation were the restructuring of security forces, the reorganization of police bodies (especially for counter-narcotics efforts), the development of criminal investigations capacity, and advising the Interpol national bureau in Bissau.

Despite the strategic relevance of the mission and the existence of significant contextual challenges, the EU deployed at the peak only 19 civilian and military experts to SSR.[22] Notwithstanding such limited effort, a preliminary analysis of official EU SSR documents shows some partial accomplishment of the mission. Firstly, it defined a new structure and legal framework for the Armed and Security Forces. Additionally, the connection between Guinean Judiciary Police and Interpol was re-established, and several organic laws within the country's judicial order were drafted. The mission worked un-

der different Governments and Presidents, witnessing a dramatic series of putsches and assassinations. Political destabilization culminated in March 2009 when President Viera was shot dead after the death of Army Chief of Staff General Batista Tagme Na Wai. According to UN-ODC (2009) the type of remote-controlled bomb used for this assassination would confirm that Mexican and Colombian drug trafficking organizations were involved in the Na Wai assassination. Members of the Presidential guard confessed their role in facilitating drug trafficking and providing illegal diplomatic passports (UNODC 2009). In Senegal, visa stamps in passports that were seized from Colombian traffickers turned out to have been issued directly by the Guinea-Bissau's Ministry of Interior (Miller 2007).

After the assassinations, the EU Parliament expressed its serious concern for the degeneration of the political climate in the country: "the growing evidence of drug trafficking in and through the region shows how it has become a major danger to the whole of West Africa and also already poses a huge threat to the EU by affecting neighbouring regions" (European Parliament 2009). "Lack of commitment" on the part of the local authorities was an open object of complaints by the EU.[23] But, while the EU Parliament recognizes the existence of a situation of emergency in Guinea-Bissau, and related threats that are posed to European security, the EU SSR mission still maintains a limited arrangement. The operation preserved its strict focus on "good governance" and the number of civilian and military personnel did not increase, even in light of the March 2009 assassinations. Consequently, as emphasized by Pirozzi and Sandawi (2009), the small EU presence in the field was unable to have a considerable impact, especially after the worsening of the political crisis. Limits to the effectiveness of such a small-sized mission were highlighted by the inability of the "advisor-centred" operation to improve the state of degradation in the Guinean National Guard (EU SSR Newsletter October 2009) and by the lack of financial and human resources for the Border Police (EU SSR Newsletter December 2009). In addition, despite the prominence of the task in the mandate, the resources assigned to strengthen law enforcement in combating drug trafficking were a small percentage[24]

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20   The Strategy was adopted by Guinea-Bissau authorities in November 2006 together with the EU.

21   The EU Political and Security Committee (PSC) was in charge of the political control and strategic direction of the operation. The PSC is under the responsibility of the Council of the EU, and was conceived as complementary to the European Development Fund.

22   The participating states were Germany, Spain, France, Italy, Portugal and Sweden.

23   Authors' interview with the Office of the spokesperson for the High Representative for CFSP (July 2010).

24   10th European Development Fund (EDF) covers the period 2008-2013 for an amount of 27 million euro. Only to 2 million are assigned to counter-drugs activities Authors' interview with the Office of the spokesperson for the High Representative for CFSP (July 2010).

of the whole EU economic support to the country (UN Peacebuilding Commission 2008).

However, despite the acuteness of the political crisis, the EU operation did achieve a few limited results, creating new legal structures for security forces and supporting the draft of new laws and reform. Antonio Mazzitelli (West Africa's representative of the UNODC) pointed out the relevant progress made in Guinea-Bissau by the international community in fighting drug traffickers. For Mazzitelli, whose comments date to before the crisis of April 2010, the Guinean government was far more open to external investigations in its country, especially in its airports. In his view, the high attention the international community gave to the drug issue in the country forced some international traffickers to gradually relocate their trade to other countries in the region" (IRIN 2008).

Several authors did not share such an optimistic perspective. According to Weiler (2009), the mission was far too modest to achieve the critical goal of EU security. There was still a profound gap between ambitions to reform the security sector and the adequate resources to achieve it. With limited numbers of civil and military advisors, progress was unlikely (Pirozzi and Sandawi 2009). As Weiler underlined, "whereas the formation of the four integrated police units foreseen in the national security strategy would have required further support, no operational activities are included in the mandate. It illustrates the difficulty to find a common ground between Member States in view of undertaking ambitious actions in Africa" (2009: 19-20). Another misstep was that member states failed to modify European involvement in the region after the assassinations of March 2009. In the wake of an observable case of drug smuggling-fuelled political instability, and of the 2010 mutiny, the EU agenda for SSR in Guinea still remains unchanged, and the mission remains grotesquely focused on "good governance". According to Pirozzi and Sandawi, "Member States are still more interested in the 'image' of a mission instead of the concrete outcome in terms of security" (2009: 15).

In overall terms, the mission appears to be based on shaky grounds and lacking an explicit strategy for combating organized crime; no concrete options were undertaken in this direction.[25] The fact that, in the time after the arrest of the Prime Minister by the military in April 2010, the US named two top Guinean military officials as 'international drugs traffickers' and froze their

assets (BBC 2012), confirms the inability of EU external action to credibly address the dramatic threat posed by organized crime in the region.

Conclusion

This exploration has primarily found evidence of the fact that over the past two decades the EU has come to the full realization of the salience of transnational organized crime as a stability and security threat. Unlike the interpretations that were dominant only a decade ago, a consensus now exists, both at strategic and operational level, on the fact that organized crime has very much to do with the intractable nature of security challenges the EU is facing both domestically and internationally. Originating, and first defined, within Pillar Three of the architecture designed in Maastricht, the categories that define the EU commitment to fighting organized crime have moved to touch the domain of foreign and security policy via the development of a distinctive external dimension of Justice and Home Affairs. Against this background, one could expect that the cross-pillarisation process that followed the ratification of the Lisbon Treaty would make it easier to articulate a comprehensive, issue-driven strategic approach, plausibly grounded also in (or founded on) member states' "best practices". Despite the emphasis placed by EU institutions on the nexus between internal and external security, differences between these two broad policy domains remain significant. De Capitani and Ferraro (2011) highlight how these two diverse regimes (supranational for internal security vs. intergovernmental for external security) continue to affect the way in which European institutions operate (and, accordingly, the results they reap).

The long process that brought organized crime (and transnational organized crime more specifically) to the attention of European security policy-making has not been accompanied by an attempt to identify working definitions of the phenomenon that would allow the capture of variations in size, organization modes, and scales of operation.[26] As Longo (2010: 24) emphasizes, the notion of "transnational" is not adopted for describing a change in the nature of traditional, locally based organized crime, but it is considered as a reorganization of traditional criminal activities driven by new oppor-

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25   The mission was aimed on the reform of the security sector, it was not "crucially aimed on combating organized crime". Authors' interview with the Office of the spokesperson for the High Representative for CFSP (July 2010).

26   The European Union strategy on the prevention and control of organized crime, which was adopted by the Council of JHA in 2000 (same year in which the UN Convention on Transnational Crime was open for ratification) seems to dodge such questions by referring to organized crime as "dynamic by nature."

tunities in a new international context. Transnational crime, therefore, is understood as a mode of operation of organized crime across borders and legal domains, which calls first and foremost for improved international cooperation among governments. Ultimately, the adoption of the above mentioned UN juridical standards in tackling situations of fragile peace and statebuilding in which "the local" comes to be very close to "the international", had as a consequence that the EU's compass would not accurately point to directions along which it was possible to take stock of political significance and societal harm.

This preliminary exploration could not find evidence of the existence of an overall strategic reflection, or of attempts to build consensus and general operational and tactical guidelines at the level of CSDP. Official strategic documents regarding the fight against organized crime are hard to obtain for a researcher, as they are rarely disclosed. It seems plausible to claim that a strategic reflection has been developed only for a major mission such as EULEX, and relatively late—i.e., after the deployment. In spite of the availability of numerous journalistic, scholarly and policy reports calling attention to the seriousness of the problem, and illustrating the need, from day one of EU engagement, for proactive, well coordinated, sharp-grained strategies, one can observe a lingering tendency to adopt reactive policies triggered and moulded first of all by the need to show that the crisis is being handled. A patent illustration of this dynamic is offered by the analysis of the Guinea-Bissau case, with the question being raised at the point where top state authorities literally engage in a shoot-out. The EU SSR mission clearly illustrates the gap that exists between ambitions and the resources that are actually deployed by the EU on the ground. After the mutiny of 2010 the EU was "forced" to terminate the mission. In this respect, one may observe that while it holds true that "there are missions which have the fight against organized crime included in their mandates" and others that provide "support to the local counterparts in developing their own strategies" (and that the latter, having a longer-term objective, represent an "optimal solution")[27] the absence of executive powers can hinder the training of local forces, fundamentally inhibiting credibility and local capacity building. The complexity and the fragmentation of the European institutional framework, as well as the ongoing search for some equilibrium between development

and security in SSR, affects the adoption and implementation of a coherent EU external approach in the field.

In sum, an essentially adaptive process of institutionalization of concepts and tools in Brussels is mirrored by the deployment of essentially reactive strategies and practices on the ground. The widespread awareness of the centrality of organized crime in regions that are extremely sensitive for European security would make it legitimate to expect the timely building of a more consistent and effective conceptual and operational arsenal.

Measured in terms of actual results, the EU decision-making process has still to prove to be able to fill the gap between ambitions and reality. Fighting organized crime is part of wider transformative strategies to build sustainable peace and contribute to European security. It takes long-term political commitment, resource availability and multi-dimensional strategies, which can cope with (geo)political (in)stability dilemmas, and attempt to cut the Gordian knot of the crime-politics nexus, while promoting socio-economic development, and assisting in strengthening of the rule of law. To match its ambition as a global player, upholding and promoting legality and prosperity, the EU has far to go, even if steps have been made in the right direction. The changing nature of prevailing forms of armed conflict along European and world peripheries makes it imperative that strategies for fighting organized crime outside EU borders receive more consideration and rigorous assessment.

Notes on Contributors

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27   Authors' interview with the Office of the Spokesperson for the High Representative for CFSP (July 2010).

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