The Socio-Legal Construction of Organised Crime in Romania

Alexandra Neag

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Department of Sociology

University of Essex

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Abstract

This thesis looks at the process and consequences of criminal justice policy transference with regards to organised crime (OC). Bridging the gap between the post-soviet literature on OC and corruption, and Western conceptualisations of OC and related criminal justice policies, this project looks at how organised crime has been constructed in post-communist Romania. Drawing on document analysis and elite interviews with law-enforcement officers and prosecutors, the present thesis analyses the socio-legal construction of OC in post-communist Romania and considers the extent and consequences of OC policy transference after 1989. It concludes that, while policy transfer did change the legal construction of OC in Romania, it created some significant problems in practice. These include overlaps and confusion in legislation, the creation of an artificial hierarchy of seriousness of OC, underpinned by stereotypical and inaccurate conceptualisations of OC, and the prioritisation of Western crime problems over local and national ones. This highlights and deepens the tension between the law in the books and the law in action. Importantly, the thesis shows that crimes like illegal logging which do not fit the Western stereotype of OC are largely neglected, while the crimes that do fit the stereotype are tackled forcefully, despite their reduced significance in Romania. The broader contribution is to the discussion of criminal justice uniformization in the EU and at the global level, suggesting that the cultural, economic and political differences between nations may mean that policy transfer will never be perfect.

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Chapter 1. Introduction

Prior to the early 2000s, Romania did not identify any organised crime (OC) threats, in large part because its legislation did not contain the terminology of OC. However, as a result of adopting The United Nations Convention against Transnational Organized Crime (UNTOC) and as part of the process of joining the European Union (EU), Romania had to amend its criminal justice policy to be in line with its European and international partners. This essentially manufactured a new crime phenomenon, leading to a series of legal issues due to the overlap with existing legislation. At the same time, the sudden construction of OC as a serious criminal reality that needed to be tackled meant that law-enforcement and criminal justice (CJ) practitioners, who until that point had only been exposed to the concept of OC through media like 'The Godfather', had to find an equivalent in the Romanian context. In line with EU policy, new policing and prosecutorial agencies were created to deal with the 'non-traditional threats' of OC and terrorism (Menarchik,1994, cited in Albu, 2007: 171). It is in this context that I decided to carry out an analysis of the socio-legal construction of OC in Romania, and the roles the EU and the US played in the creation of the OC threat in the country.

The project

The present thesis is the result of a research project which set out to analyse the socio-legal construction of OC in Romania in order to find out the extent to which

Americanised/Western[1] policies against OC have been transferred to Romania and influenced its conceptualisation of OC and strategy for tackling it. Furthermore, it looked at how anti-OC practices are implemented by the relevant agencies and whether they are deemed effective by criminal justice (CJ) practitioners. In addition, the project examined the perceptions of CJ actors regarding OC and considers how they relate to official legislation and actual OC policing in Romania.

In order to do this, I analysed the relevant national and international legislation and conducted qualitative elite interviews with Romanian anti-OC law-enforcement officers and prosecutors. While the legislation analysis enabled me to understand the legal construction of OC and how it evolved over time, the interviews gave me insight into the social construction of the phenomenon. Moreover, this thesis assumes a constructivist approach to analysing individual and social perceptions related to OC. As per this approach, social perceptions are subjectively constructed by the perceiver, reflective of their previous perceptions and experiences (Zebrowitz, 1990).

According to Jussim (1991), this mechanism works both ways: once perceptions are formed, they are then used in the construction of social reality: ‘social perception is a major force in the creation of social reality’ (1991: 54). Therefore, this thesis discusses how Western, especially American, rhetoric and constructions of OC, with the underpinning political and economic interests, have been translated into

[1] In the context of this thesis, Western is used in a more abstract way to refer to countries in which the majority population broadly identifies with Western culture, as opposed to using the word in its geographical sense. In other words, by Western I mean the developed countries which were generally West of the Iron Curtain (i.e. Western Europe and North America), as well as some of their former colonies which have adopted a very similar culture (for example, Australia).

international policies and training programmes, ultimately making their way into the Romanian discourse and policies on OC.

Research contributions

Through this thesis I intended to bridge the gap between Western and Eastern European conceptualisations of OC in order to better understand the effects of global OC policy at a national and regional level. I employed a multi-disciplinary approach, bringing together criminological theory, socio-legal research and concepts from political science. The project contributes to debates around policy transference and its usefulness, identifying some of the pitfalls of the push for globalisation of policy and the 'Westernisation' of law enforcement.

The relevance of this project lies with the comparatively limited research discussing criminal justice policy transfer from the West in a specific post-soviet context. With its communist past and its present membership and position within the EU, Romania is ideally placed for such an endeavour, and the fact that it is under-researched makes this project even more relevant. Although Romania has been making efforts to improve its border security in order to be allowed into the Schengen agreement, and has actually qualified for it, this highlights important issues pertaining to police and judicial cooperation with other member states, and raises questions about Russia's continuing influence in an increasingly European Romania. This thesis sheds some light on how national policies in Romania are affected by its strategic relevance within the EU and how this, in turn, affects the overall security of the Union.

The thesis discusses the process of policy transfer with regards to OC policy into Romania via the EU, and the challenges resulting from this process in the conceptualisation and combatting of the phenomenon in the country. It advances the argument that, due to short-sighted, somewhat coercive practices (Newburn and Sparks, 2004) aimed at creating legal symmetries/uniformities across the EU, the legal and social construction of OC in Romania became disjointed from the crime realities in the country. The attempts to clarify the resulting overlaps and confusions ultimately resulted in the adoption of such a wide legal definition of OC that it is almost devoid of any meaning.

Conversely, also as a consequence of policy transfer, the social conceptualisation of OC is closer to stereotypical, Hollywood-style depictions of mafia groups rather than reflecting the organisational style of criminal groups in Romania, resulting in what I refer to as *the hierarchy of seriousness of OC*. Put simply, certain crime types are considered more serious/higher risk simply due to the fact that they are associated with the stereotypical depiction of OC as a pyramid structure, with a Godfather-like figure at the tip of the pyramid, orchestrating all operations and instructing his lieutenants and underlings. Other crimes are placed at the top of the hierarchy of seriousness because they are seen to pose a significant risk to national security; this is not necessarily because the crimes are particularly significant in the Romanian context, but because they are embedded in the conceptualisation of serious organised crime which got transferred into Romania alongside OC policies. As the thesis will explain in more detail, CJ practitioners, as well as the general public, differentiate between ‘real’ and/or ‘serious’ organised crime (that is, groups which are structured similar to the stereotype, or which involve ‘serious’ crimes like drug

trafficking, human trafficking, cybercrime and financial crime) and less organised crime (i.e. crimes which technically fit the legal definition of OC but do not fit the stereotype).

The project also contributes to important discussions about environmental crime and its policing. The problem of illegal logging is a significant one across Eastern Europe and Romania is getting increasing media and EU attention for its inefficient tackling of the phenomenon. The discussion is an important one, since findings show that anti-OC police officers and prosecutors do not feel that environmental crime in general, and illegal deforestation in particular, is within their area of competence, despite the law technically granting them jurisdiction in any offence which involves an OC group. My argument is that because the offence of illegal logging does not fit the stereotypical conceptualisation of OC, it is seen as less significant and placed far from the top of the hierarchy of seriousness of OC.

The seriousness of some crime types, such as drug trafficking, is overestimated, while other crime types, such as illegal logging or other forms of environmental crime, are not even conceptualised as OC, despite meeting the definitional criteria for OC (sometimes even more so than some drug-related offences). In essence, the hierarchy of seriousness results in some OC offences (i.e. drug trafficking) being taken much more seriously by authorities because they fit the stereotypical (Western) conceptualisation of OC; on the flip side, offences such as illegal logging are not seen as stereotypical OC, as they do not fit that same conceptualisation, and are

thus not tackled as vigorously, despite their impact at the national and local level in Romania.

Background

After the fall of the Iron Curtain, Menarchik (1994) predicted that 'non-traditional threats', consisting of OC, drug trafficking and terrorism, would pose more danger to Romania and other South-Eastern European countries than any conventional inter-state conflict, and that the region was poorly equipped to tackle this (Albu, 2007: 171). Almost three decades later, Romania, now a member of the European Union, is on course for joining the Schengen area, at a time when the integrity and relevance of the Union is being called into question. OC and corruption continue to be considered among the most significant threats to Romania's political and economic stability (Center for the Study of Democracy, 2010; Romania's Presidential Administration, 2020) and, as a result, to the stability and security of the EU.

Many of the current organised crime (OC) policies and policing strategies in present-day Romania can be traced back to a political discourse and foreign policy agenda originating in the US and Western Europe, and which, through policy transfer via the EU, reached Romania at the end of the 20th century. Woodiwiss and Hobbs (2009) outline the history and developments of the term 'organised crime' in the US from the 19th Century, arguing that as concern regarding the phenomenon grew within the US and internationally, OC became a central element of the 'War on Drugs'.

This contributed to the globalisation of OC policy and law-enforcement following a specific American model, commonly based on an 'alien conspiracy theory' (Potter, 1994) by which outsiders (immigrants, ethnic minorities and various other 'undesirables') conspired to corrupt law-abiding society. These frameworks supported the use of punitive measures and intelligence-led policing to tackle OC, which, it has been argued (Nadelmann, 1993; Woodiwiss, 2001), were then exported to much of the world through US foreign policy and within international forums like the United Nations (UN) and the EU, with the stated aim of improving legal and law-enforcement cooperation across national borders (Hobbs and Antonopoulos, 2013; Van Duyne and Levi, 2005; Van Duyne and Nelemans, 2011).[2]

However, in reality, the 'OC threat' takes different shapes between as well as within different nations. As an example, in former communist countries, OC is closely linked to political and administrative corruption (Center for the Study of Democracy, 2010; GRECO (Group of States against corruption), 2001; Holmes, 2009a). Hence, tackling OC in such countries would entail specific policies that consider 'internal' OC threats (United Nations, 1994) and focus on tackling state-linked or state-enabled OC. Rather than referencing the alien conspiracy theory, another way of understanding the relationship between Romanian OC and corruption might thus be the 'transformation of the nomenklatura' model (Gel'man, 2004: 218), according to which corrupt communist elites in post-soviet countries maintained important positions and

[2] Parts of this literature research were published as part of a chapter in the book *Criminal defiance in Europe and beyond. From organised crime to crime-terror nexus* edited by van Duyne et al. (2020). For more details see Neag (2020).

power within the new democratic governments, undermining the rule of law and stability through corruption and involvement in OC.

Amidst the power vacuums, legal chaos and overall confusion, the transition towards market capitalism and the loosening of borders gave rise to new criminal opportunities, which Romania and other transitional regimes in CEE had to contend with. For example, in Romania and other post-communist countries, OC and corruption have been linked to the quasi-legal privatisation of state-owned companies during the transitional period, as well as illegal land restitutions and extensive illegal logging which continue to this day (EIA, 2015).

Although the American conceptualisation has, to some extent, been adopted by Romania, the degree to which it fits the nature of Romanian OC and the country's political and policing culture is questionable. If national policies and policing strategies are informed by western policing models and interpretations of OC it is likely that some specific features of the Romanian OC phenomenon, like the close links to corruption, state-facilitated illegal property restitutions and deforestation (EIA, 2015), the existence of an 'economy of favours' (Ledeneva, 1998) or the collectivistic cultural patterns (Karstedt, 2003) are overlooked in the process.

Equally, it is important to take into account the possibility that rather than fully absorbing and implementing the model policies, the specific culture and institutional framework in Romania may have eroded or deformed these policies. Such erosion might have significant implications with regards to international cooperation. It is

therefore important to consider such particularities of post-soviet societies and the consequences of their communist past. In addition, we should keep in mind the effects of current European/western frameworks against OC. Together this will lead to a better understanding of post-soviet crime policies and, thereby, global policy transfer and security more broadly.

These points raise some important questions which the following chapters aim to answer: To what extent have Western policies against OC been transferred to Romania and influenced its activity against OC? To what degree has Romania accepted, implemented and absorbed these policies, and in what ways? There are also broader questions about the effects of CJ policy transference and the effectiveness of current international, regional and national policies against OC and other transnational threats. Should 'model legislation' (UNODC, 2012) and strategies be implemented worldwide, or should countries have different legal provisions and policing models? Should the EU push for a common anti-OC policy, or is it is too diverse and, perhaps, weak, for this to be effective? And, if such policies and legislation are introduced, to what extent do they play out in different, local ways within Romania? As Sergi (2017) argues:

> there cannot be a unique model to fight mafias and organised crime across nations . . . [however] integrated models are possible and desirable when they are the result of comparative and specific analysis rather than policy transfer and approximation (Sergi, 2017: 18).

Thesis outline

The following chapter is the result of a deep dive into the literature on organised crime. It firstly provides the historical context within which the concept of OC has emerged in the US, and explains how the rhetoric around it was exported around the world to create a global conceptualisation of OC. It then discusses how the particular interests of the EU led to the adoption and implementation of an American-inspired response to OC, and how this ultimately led to Romania and other Central Eastern European (CEE) countries followed suit. Chapter 3 discusses the evolution of the Romanian OC legislation, tracing its trajectory from when it was first introduced in the early 2000s up until the present. It highlights some of the legal issues caused by the adoption of what was essentially a foreign concept into national legislation, for the purposes of legislative alignment and international cooperation. Chapter 4 outlines the research design methodology used in this study and lays out the research questions and objectives arising from the literature. It also discusses some of the difficulties related to accessing participants in a target population which is small and notoriously hard to reach.

Chapter 5 includes the results and discussion of my interviews with OC police and prosecutors and covers the analysis of their perspectives on the concept of OC, the OC Romanian legislation, and the seriousness of the OC phenomenon in Romania, among other themes. It also looks at a case study of cigarette smuggling and discusses the extent to which this crime type fits the legal and social conceptualisation of OC. Chapter 6 focuses on illegal logging in Romania and its policing as a discussion of harm, policy transference and the hierarchy of seriousness of OC. It looks at the historical context which led to the evolution of

illegal deforestations in Romania and considers the role of systemic corruption in preventing the effective tackling of the phenomenon. Lastly, chapter 7 highlights the main findings of the thesis. It discusses the contributions of the research, as well as its limitations, and proposes some ideas for further study.

Chapter 2. Literature Review

This chapter lays the groundwork for the analysis of the US and EU influences on Romanian OC legislation and practice, for which a discussion of the origins of OC policy and policing is needed. The following sections will consist of a historical review of the major developments in terms of OC policy, starting from 19th century US, leading to late 20th century in Western Europe and followed by post-soviet Eastern Europe, finishing with the current state of affairs in Romania. These are relevant steps in placing the development of Romanian OC policy within the context of American legal imperialism and the EU's push for further integration, on top of the country's communist legacy and struggle during the transition period. Before that, it is worth highlighting some of the definitional and conceptual issues of the term 'organised crime'.

A note on the concept of organised crime

In the foreword to the UN Convention on Transnational Organised Crime (UNTOC), Kofi Annan wrote: 'The international community demonstrated the political will to answer a global challenge with a global response. If crime crosses borders, so must law enforcement' (UNODC, 2004: iii). By 2016, the Convention had 147 signatories and 190 parties in total, making it one of the most widely adopted international legal instruments. Considering current trends towards global policy and internationalisation of policing serious threats such as terrorism and organised crime (OC), it is important to better understand the emergence and consequences of such policies.

The history of the concept of organised crime (OC) has been charted back to 19th century US, where term ‘organised evil’ was first used in relation to Black people and other ethnic minorities, the urban poor, immigrants and other ‘undesirables’ (Woodiwiss and Hobbs, 2009); these groups were perceived by the moral entrepreneurs at that time to be engaged in, and peddling, various vices – such as gambling, drug taking and prostitution – which contravened the then-dominant Anglo-Saxon Protestant values (ibid.). This inflammatory rhetoric, which gained even more traction during the Prohibition era, marginalised certain groups of *outsiders* who were seen as attempting to poison moral society and corrupt law-abiding individuals (ibid.). According to this understanding of OC, the role of the state in OC is underplayed; the state is described as a victim, while OC ‘infiltrates’, ‘influences’, ‘manipulates’ economy, society, politics and the law (Karstedt, 2014). Critics have argued against this by suggesting that ‘organized criminals may want to enjoy the profits of their business rather than subvert societies’ (Van Duyne, 1996: 201).

Due to the perception of foreigners or outsiders as dominating the criminal underworld, this perspective came to be known as ‘the alien conspiracy theory’ of organised crime (Paoli and Vander Beken, 2014). However, Woodiwiss argues, at least when it came to tackling the phenomenon in the US, ‘organised crime was not such a loaded term as it is now’ (2006: 14), in the sense that it had not yet been associated in the US with mafias in general, and the Cosa Nostra in particular. Thus, in the first part of the twentieth century, OC was taken to mean ‘systematic criminal activity’ (ibid.) and was especially associated with racketeering offences.

Still, it could be argued that the term was ‘loaded’ since, due to the increase in popularity of the moralist discourse which essentialised *the other*, OC was specifically associated with poverty, immigrants, and Black people, standing in stark contrast to morally-sound, upstanding (white) citizens. In the intervening years, the concept has shifted to include and criminalise other groups of people (most notably, Italian migrants from the South of Italy). It is worth bearing in mind the racist, exclusionary roots of the concept and its use as a rhetorical device to penalise those who were perceived as different from mainstream society. As discussed later in this chapter, the concept of OC was exported outside the US, and with it came the discriminatory and alienating discourse about outsiders as shadowy figures involved in the criminal underworld.

Moreover, the concept of OC has been analysed, debated, and criticised at length by academics, politicians, and practitioners due to its vagueness and impreciseness. While this may at first seem like just a matter of semantics, the term – and how each agency, institution or country interprets and operationalises it – has real consequences in policy and practice and affects the public understanding of the phenomenon. As per a 1993 NCIS Threat Assessment, ‘organised crime has many definitions; this may be because it is like an elephant – it is difficult to describe but you know it when you see it’ (cited in Hobbs, 2013: 6). However, as this thesis shows, people do not necessarily know it when they see it, or they often see it where others may not. Another analogy by Levi likens organised crime to a Rorschach inkblot, since ‘[its] attraction as well as weakness is that one can read almost anything into it’ (2002: 887).

Essentially, the concept of OC has become somewhat of a ‘portmanteau term’ (Allum and Kostakos, 2010: 2), used to refer to a wide range of risks and insecurities. More specifically, academics from different fields studying OC have not managed to agree on most issues, from the prevalence of the phenomenon to how it should be defined or where the political interest in OC stems from (Edwards and Gill, 2003). For example, Klaus von Lampe’s (2021) website lists some 180 different definitions of OC, from national legislative definitions, law-enforcement, academics, NGOs or international organisations, highlighting the variety of perspectives and conceptualisations of OC.

While the US rhetoric employs a take on the ‘alien conspiracy theory’ in relation to OC (Potter, 1994: 7; also see Lyman and Potter, 2007), in Europe there is somewhat of a tradition in regarding OC as a home-grown phenomenon, enabled by quasi-legal actors and systemic corruption (Elvins, 2003). Despite this, as will become clear throughout this thesis, the EU tendencies towards securitisation and the standardisation of criminal justice policy have contributed to the emergence of a conceptualisation of OC which is at least partly inspired by the early American exclusionary rhetoric of OC. As a result of this, according to Edwards and Gill (2003), Paoli (2014) and others, there seems to be a significant gap between the predominant policy assumptions about organised crime and the findings of empirical research into the phenomenon, suggesting a significant gap between the law in the books and the law in action (Pound, 1910) with regards to OC. In order to deconstruct the meaning of ‘organised crime’, this chapter continues to look at how

the conceptualisation of the phenomenon evolved over time and how differing understandings of the term have underpinned several paradigms of organised crime which still fuel debates today.

The alien conspiracy theory and the emergence of US anti-OC policy

As outlined in the introduction, the earliest conceptualisation of OC emerged in the 19th century in the US and was used as a rhetorical tool for racial, ethnic and economic discrimination and exclusion (Woodiwiss and Hobbs, 2009). What resulted was a criminalisation of 'vices' which were considered to bring offence to the morals of white Protestant America (Abadinsky, 1985). Although the Prohibition meant that the condemnation of these vices was finally enshrined in law, it became abundantly clear that it gave rise to more criminality due to the fact that, while services like prostitution and gambling and goods like alcohol and drugs could no longer be provided legally, the demand for them continued to exist, thus causing their providers to move to the illegal market. Ironically, according to the 1929 Illinois Crime Survey, 'liquor prohibition has introduced the most difficult problems of law enforcement in the field of organised crime' (cited in Friedman,1993: 340). Furthermore, law-enforcement was not particularly enthusiastic about implementing these laws; as Woodiwiss and Hobbs put it, 'enforcement in some parts of the cities was purely for show or to crack down on those operators who failed to pay enough protection money' (2009: 107).

Such instances provide evidence that it is rather simplistic to suggest that the state or law-enforcement are somehow victimised and corrupted by an evil organisation;

instead, it would seem that they were/are actively and willingly involved in OC, in some cases committing racketeering offences themselves (a related argument, by Tilly, 1985, likens the state to a protection racket, whereby the only difference between it and stereotypical OC is the supposed legitimacy with which the state uses violence to achieve its means). In any case, this began to erode the opposition between 'good', as in moral society/the respectable classes, and 'evil', i.e. minorities/*others*, leading to a recognition that 'organised crime requires the active and conscious co-operation of a number of elements of respectable society' (Lindesmith, 1941: 119).

This recognition was in turn reflected in policies and practices aimed at tackling OC. A good example is Roosevelt's presidency, when, as part of the New Deal, several steps were taken to discourage the involvement of 'respectable society' in OC. There was an emphasis on increasing arrest and conviction rates for police officers, businessmen, politicians and other members of the establishment who facilitated or were actively involved in organised crime activities (Edwards and Gill, 2003). The new policies focused on increasing the cost of offending, i.e. the risk of getting caught and punished, and decreasing the opportunities of committing crimes like fraud, tax avoidance and money laundering, by addressing the faults in the financial and political systems. According to Woodiwiss (2003: 15), these reforms 'saw a decline in the corporate employment of gangsters in labour-management disputes and made large-scale fraud, tax evasion and embezzlement more difficult and risky'. As a result, not only did the conviction rates of 'upper world' offenders from the professional and political classes increase, but it also led to more convictions of 'underworld' criminals who operated mostly on the illegal market (ibid.).

In fact, as research shows, there is a correlation between the weakness/strength of the state and the level of OC (Fijnaut, 2014b; Standing, 2010) – when the state is weak and unable to provide security and protection to its people, mafia-type criminal organisations have historically taken the opportunity to fill that void and to exploit a lack of regulatory control. Some more recent examples of this phenomenon include the favelas of Rio de Janeiro, Le Vele di Scampia in Naples and the Cape Flats in Cape Town. These are all relatively destitute areas inhabited by the marginalised, impoverished working class, where a lack of state provision of security and welfare allowed criminal groups to emerge and take control of the area, providing protection and other services to the people living there (della Porta et al., 2015; Standing, 2010). It could be argued, then, that the strengthening of the state by implementing policies to improve the functioning of the legal and financial systems in the US has had the corresponding effect of limiting the prevalence/scope of OC. As Sutherland puts it, 'large and strong criminal organizations cannot develop if the government is strongly organized' (1934: 188). Although, he adds:

> The disorganization of the present American governments, however, is different from the early types of governmental disorganization. Modern day law enforcement agencies cooperate with criminal organizations because they are under the control of politicians who are either criminals in the usual sense of the word, grafters, and bribe-takers (specialized forms of criminals) or have sympathetic relations because of common membership in the underworld. (Sutherland, 1934: 188)

Furthermore, the strategy of targeting such business and political elites and law-enforcement as a way of combating/preventing crime in general is well supported by the work of academics such as Edwin Sutherland (1949) and John Braithwaite (1989)

and others. It has been argued that people who have high stakes within their communities (i.e., a good job, respect – which are based on others perceiving them as trustworthy and reputable) and a reputation to uphold are affected to a greater extent by the deterrent effect of punishment, as well as by an increased risk of getting caught. By comparison, individuals who, perhaps for a lack of other opportunities, are mainly operating on the illegal market (thus a loss of employment does not constitute a threat) might not be at risk of losing reputation and having their social capital be negatively affected by getting caught and imprisoned (if anything, their reputation might be positively impacted by serving a sentence in prison – see below the case of *thieves in law* in the post-soviet context).

In any case, this strategy unfortunately did not last very long, as the subsequent presidential administrations (especially those of Nixon and Reagan) dismantled the progress made previously, by adopting the alien conspiracy theory yet again (Woodiwiss, 2003). This rhetorical device was particularly effective in creating moral panics (Cohen, 1972) – in other words, instilling fear into the population in order to get people to act and vote in a certain way; examples of this can be observed in politics today as well, in the US, the UK and elsewhere. This fear of *the other,* fed by exaggerations about differences between people and by demonising certain groups, causes people to accept or even demand stronger and more intrusive law-enforcement, as well as tougher punishments (for more on this see the concept of ontological insecurity in Young, 1999).

Organised crime and the War on Drugs

The shifts in the US political and national security agendas led to the regression to earlier understandings of OC and the return of the alien conspiracy theory. The problem of OC was again redefined to single out minority ethnic groups, initially focusing on Italians (and later extending to Asian and South American minorities), who were said to be part of complex criminal conspiracies which threatened the order and morality of American society (Woodiwiss, 2003). With media slogans and titles like *A $2 Bet Means Murder* (Cook 1961, in Woodiwiss and Hobbs, 2009: 110), gambling was described by politicians and media alike as a 'fever', an 'epidemic' which threatened children (Woodiwiss and Hobbs, 2009) and constructed as a folk devil, alongside drugs and prostitution.

As segments of the hearings from the 1950/51 Special Committee to Investigate Crime in Interstate Commerce (which came to be known as the Kefauver Committee) were televised to over 20 million people, the emphasis of the statements was often on the corruption of children by unsavoury characters (*i.e*. minorities, the urban poor), described as 'these emissaries of evil, these ambassadors of evil' (Senator Tobey, cited in Woodiwiss, 1988: 123), referring this time to drug traffickers, in an effort to create panic among parents. The overall line of argument of the Committee was that a national, wide-reaching criminal syndicate, which they identified as The Mafia, was controlling the gambling and drug markets of the US, as well as much of its underworld, and that they were plotting to corrupt the morality of good society. One of the most striking moments during the hearings was the testimony by 'crime boss' Frank Costello:

> The television people were told to avoid filming Costello's face but not his hands; viewers saw the gambler's nervous, sometimes twitching, hand movements, which, combined with the hoarse whispering voice of a man who had had a throat operation, and the press build-up to his testimony, would have suggested immense conspiratorial power (Woodiwiss and Hobbs, 2009: 110-111)

This snapshot accurately represents the core of the US discourse on OC and its control from that moment on, which, as this section will show, has come to shape popular belief about what OC is. According to the much-quoted statement by the Kefauver Committee, 'there is a nationwide crime syndicate known as the Mafia, whose tentacles are found in many large cities […] Its leaders are usually found in control of the most lucrative rackets' (US Senate, 1951: 131).

This depiction of OC as a crime syndicate of foreigners was also popularised through media such as books and films, most notably when The Godfather (Puzo, 1969) was published and the movie trilogy based on it came out. Compounded by certain events such as the arrest and questioning of Joe Valachi (who during his testimony publicly named the criminal organisation *La Cosa Nostra* for the first time – Sergi, 2017), this narrative, repeated constantly by politicians, moral entrepreneurs, and the media, slowly took root in the public consciousness (Paoli and Vander Beken, 2014). As Potter argues, it was also somewhat easier for people to accept this version:

> To suggest that righteous citizens are being perverted, intimidated, and forced into vice by alien forces is far more palatable than suggesting that 'native' demands for illicit drugs, sex, and gambling invite the creation of organised crime groups. (Potter, 1994: 10)

More importantly, this discourse also influenced criminal justice policy in many parts of the world, including post-1989 Eastern Europe. The moralist discourse (for more details on OC as a ‘vice industry’ see Abadinsky, 1985) broadcast during the Committee hearings, coupled with the focus on gambling, drugs and other vices and turning them into folk devils, enabled the Kefauver Committee to draw the public and political attention in the US and demand reforms concerning the policing of OC. Moreover, the Committee suggested the escalation of OC policing to the national level and encouraged the involvement of central federal agencies instead of local and state-level ones. This was a major step in elevating OC from a local problem to the status of a threat to national security, a move later mimicked in other countries in what has come to be referred to as *the securitisation paradigm of OC*. This shift was first codified through the RICO (Racketeer Influenced and Corrupt Organizations) Act of 1970, which introduced the concept of a criminal enterprise, provided for extended prison punishments for activities performed as a participant in the enterprise, and sanctioned the use of secret policing tactics (Pub.L. 91–452. 84 Stat. 922, 1970).

In any case, the reforms following the recommendations by the Kefauver Committee were used to justify increased government spending and regulatory control of drugs and other vices, especially during Nixon’s conservative administration (1969–1974), in order to continue the marginalisation and persecution of minorities and political opponents (Ehrlichman, cited in Baum, 2016; also see Block and Chambliss, 1981). The reforms involved an increase in police powers and legitimised the ever-widening reach of surveillance and the use of wire-tapping and informants, as well as the introduction of new techniques like controlled deliveries and control measures such as asset forfeiture.

These changes, as argued by Woodiwiss and Hobbs (2009), were extending into areas that had been, until that point, covered by constitutional guarantees. Therefore, the exaggerated portrayal of OC and the moral panics generated by the moralist discourse served the purpose of legitimising the shrinking of said guarantees. The result was, ultimately, a stronger US federal police force which benefitted from more resources and investigative powers and which, at the same time, became less accountable to the public. As the next sections will show, with globalisation and increased cooperation between Western/democratic nations during the Cold War, these developments were replicated and adapted by other countries, laying the groundwork for an international system for combatting OC.

OC came to be understood as a conspiracy of highly organised criminals, a sort of shadow government seeking to overthrow the legitimate one, and with it, to undermine the American way of life (Woodiwiss, 2003). The state was yet again the victim, and the respectable classes were absolved of any suspicion over their contribution to OC. In this context, Nixon's presidential administration began pushing for increased federal jurisdiction for OC and more power to intelligence institutions, high spending on law-enforcement and the introduction of 'high policing tactics' (Brodeur, 2000), as part of what came to be known as 'The War on Drugs'. During this time, OC became inextricably linked to drug trafficking, as evidenced by public discourse, as well as media accounts (Hobbs, 2013; Woodiwiss, 2003). Public opinion was thus manipulated to justify increased spending and intrusive measures of surveillance such as informants, stings and wire-tapping, as well as increased

punishments and justice processes with arguable legitimacy (Paoli and Vander Beken, 2014; Woodiwiss, 2003). These measures, according to Block and Chambliss (1981), were then used by the Nixon administration to unfairly target opponents and political dissidents under the guise of fighting a war on drugs and crime. A recently published piece which quotes Nixon's former domestic policy advisor supports this viewpoint:

> The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the anti-war left and black people […] You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders. Raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did. (Ehrlichman, cited in Baum, 2016: 1)

As the 'war on drugs' became a much-used tool for both the domestic and foreign policy agendas of the US, the idea of OC as shorthand for drug trafficking became more established. In fact, Reagan's administration made use of the *us* versus *them* narrative that came with the war on drugs in order to continue the push for what Nadelmann (1993: 247) called 'the Americanization of drug enforcement' and 'of criminal justice systems throughout much of the world' (ibid.: 12). By creating a false dichotomy of 'you are either with us or with the drug traffickers', Reagan's Presidential Commission, which was tasked with examining and solving the issue of South American drug cartels, suggested offering financial incentives in the form of foreign aid to countries which adopted the American construction of OC, as well as the subsequent policies and practices for tackling the phenomenon (Narcotics Digest, 1986, cited in Woodiwiss, 2001: 167). It did not matter that some of the criminal

justice systems were not fit for US-style tactics or that the major issue of law-enforcement and public officials' corruption enabled OC to circumvent most policing efforts:

> [Drug Enforcement Administration (DEA) agents] have pleaded, cajoled, threatened, and tricked their local counterparts into cooperating with them. Relying both on the diplomatic leverage of the U.S. ambassador, and on the transnational police subculture that unites police the world over, DEA agents have succeeded in immobilizing many top traffickers who thought they had purchased their safety. (Nadelmann, 1993: 310)

The globalisation of policing

As Bowling and Sheptycki (2012: 8) state, '[t]here is no such thing as a global police force but there is global policing'. Although there is no single global agency in charge of policing the entire international community (*i.e*. a police force per se), there have been some significant developments in the second half of the 20th century which contributed to the establishment of a system of transnational policing, codified in a series of international treaties and implemented through various supra-national organisations.

Some academics trace the beginning of the globalisation and harmonisation of OC policing back to the US (Nadelmann, 1993; Van Duyne and Levi, 2005; Woodiwiss and Hobbs, 2009; Bowling and Sheptycki, 2012; Beare and Woodiwiss, 2014), where OC continued to be used as a rhetorical device and became part of the War on Drugs discourse, as outlined above. Reagan's President's Commission on Organized Crime, led by Kaufman, worked to include the conception of OC as an alien conspiracy into the US foreign policy agenda. It also brought forward to export this

policy to other countries and international organisations via diplomatic channels. As a leverage it made use of bi-lateral agreements and financial assistance treaties, conditioning the receipt of US financial aid by another state or organisation on implementing mutual extradition treaties and various elements of the US War on Drugs agenda (Narcotics Control Digest, 1986, cited in Woodiwiss, 2001: 167; also see Hobbs and Antonopoulos, 2013; Webster, 1998).

This was done in the hope of spreading US policies and its policing style throughout the world (Woodiwiss and Hobbs, 2009) because, it was argued, OC had evolved from a national phenomenon to an international one, and policing had to follow suit. This is the same viewpoint shared by the former UN General Secretary, as indicated at the start of this thesis. While this OC shift form national to international may have been true to some extent, Nadelmann (1993) argues that a deliberate move to extend the jurisdiction of US institutions like the FBI and the DEA (Drug Enforcement Agency) to extraterritorial offences (a process called legal imperialism; see Mattei and Nader, 2008: 159) played a crucial role in the internationalisation of US law-enforcement. To that end, OC policy and the War on Drugs were linked with the economy and the financial system because of money laundering (Van Duyne et al., 2018).

As a result, OC was made into a threat to national and international security. This constituted for Reagan the basis to put the War on Drugs on the top of the G7 agenda (Woodiwiss and Hobbs, 2009), setting the stage for the UN 1987 International Conference on Drug Abuse and Illicit Trafficking. The Conference was

followed by the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which became an instrument of international law to be used in the transnational policing of the narcotics trade. Moreover, following a similar timeline, the offence of money laundering was introduced into the treaties and agreements which followed (Van Duyne *et al*., 2018), it too becoming a major element of global OC policy. Despite the lack of strong empirical substantiation, the 'threat picture' of 'big organised crime, enormous drug revenues and related laundering' (Van Duyne et al., 2018: 9) was eagerly accepted in international fora.

Through a process which could be described as the colonisation of international law-enforcement and criminal justice, in the second half of the 20th century, the US managed to put in place extradition and judicial assistance agreements, extended its extraterritorial reach, stationed enforcement agents and attorneys abroad and used diplomatic pressure to export its war on drugs and related conceptualisation of OC to Latin American and Caribbean nations, and then to the rest of the world (Nadelmann, 1993). When analysing the work of DEA agents in Europe, Nadelmann describes the major legal and practical differences between the European and American legal systems:

> Until well into the 1960s, relatively few European police agencies had specialized drug enforcement squads, and virtually no prosecutors specialized in drug trafficking cases. By the late 1980s, most European police agencies, be they national, state, cantonal, or municipal, claimed such units and quite a few worked closely with specialized prosecutors. (Nadelmann, 1993: 192)

Bowling and Sheptycki (2012) and Van Duyne and Nelemans (2011) illustrate the gradual shift in international discourse on transnational crime resulting from the War

on Drugs and the influence of the US by analysing the changes in the rhetoric of the UN. In the early 1970s, the notion of transnational crime was used to refer to white collar crime and corruption, to which transitional and developing states were said to be particularly vulnerable to (Van Duyne and Nelemans, 2011). This subject was discussed in terms of its social and economic impact on those states. The emphasis in the report of the 1975 5th UN Congress on the Prevention of Crime and the Treatment of Offenders was very much on business and political elites beyond the reach of law. In other words, individuals or (transnational) corporations in positions of power were seen as abusing weak states which sometimes lacked certain regulations (ibid).

However, with every subsequent UN Congress during the 70s and 80s, the discourse around transnational crime became increasingly laden with law-enforcement lingo and the emphasis shifted towards the control of the global trade in illegal drugs and the crime-money generated by it. Another development in the 1980s, concomitant with the shifting focus towards drug control, was the emergence of a discussion around anti-money laundering, asset forfeiture and confiscation in narco-trafficking cases (ibid.), elements inspired by the RICO Act and other US policies.

The shift in the emphasis of the international discourse on transnational crime from corporate and political abuse and corruption to transnational *organised* crime (TOC), with a focus on drugs, was finalised through the 2000 Palermo UN Convention against Transnational Organised Crime (UNTOC; see United Nations, 2000), signed by 147 states as of April 2018. In this process of legal imperialism, the US'

exportation of its own crime control policies through its foreign policy agenda was relatively easy to implement considering post-WWII influence of the US, and the tactics used by American law-enforcement officers and diplomats, who 'pleaded, cajoled, threatened, and tricked their local counterparts into cooperating with them' (Nadelmann, 1993: 310).

This brings up an interesting question regarding which of these tactics were used in the case of Romania during the transition period. In any case, the US was able to secure, to a considerable extent, its hegemony over international crime control through practices which were rather one-sided, or at least imbalanced. As Nadelmann puts it:

> International law enforcement endeavours are generally bilateral and cooperative in nature, reflecting states' recognition of mutual interests in crime control as well as principles of reciprocity and comity. Among the features that distinguish U.S. international law enforcement behaviour [. . .], however, are the relatively high number of endeavours in which U.S. officials act unilaterally and coercively. (Nadelmann, 1993: 472)

Organised crime and criminal justice policy transfer

The process of policy transfer[3] is a well-documented reality (Benson and Jordan, 2011; Dolowitz and Marsh, 1996; Ruspini, 2009) and could be argued to be an inevitable consequence of globalisation. With the compression of space and time (Massey, 1994) as part of globalisation, companies make deals with governments regarding regulations and infrastructure, NGOs sponsor research and awareness

[3] The term policy transfer is used in this thesis in its broader sense, as defined by Dolowitz and Marsh (1996: 344): 'a process in which *knowledge about policies*, *administrative arrangements, institutions* etc. in one time and/or place is used in the development of about policies, administrative arrangements, institutions in another time and/or place' (emphasis added)

campaigns, and states or groups of states make bi- or multi-lateral agreements, all of which help shape national policies. However, such mechanisms can be used exploitatively by the more powerful nations, transnational corporations and supra-state organisations, which is why policy transfer should follow a careful consideration of all the relevant factors.

As described by Newburn and Sparks, criminal justice policy transference is a particularly interesting area for analysis, due to its potential to raise questions of sovereignty, legitimacy, and accountability. The authors explain that matters of criminal justice, police power and legitimacy, the establishment of criminal punishments and similar areas 'have classically been regarded as integral to, and even definitive of, the capacities and legitimation claims of the nation-state' (Newburn and Sparks, 2004: 2). While policy transfer is not a novel phenomenon, any exchanges or 'lesson-drawing' (Rose, 1993) between sovereign nations was, until the last few decades, largely voluntary (though this was certainly not the case in colonial contexts). For example, Romania's first Criminal Code (1865) was based quite closely on the French and Prussian ones.

Newburn and Sparks differentiate between such voluntary processes, which they describe as 'lesson-learning', and more coercive variants of policy transfer, or 'convergence' (2004: 4). The latter includes processes which took place in colonialism, through the global adoption and implementation of international conventions and agreements, or indeed as part of EU's efforts to unify policies across the member states:

> One of the most visible sites of such changes in the crime control sphere is the transnationalising effect of the processes and practices central to increasing European co-operation in field of policing (Newburn and Sparks, 2004: 4)

As indicated by authors like Lacey (2003) and Nelken (2002), the historical, social, political and cultural variation between countries, even within the EU, underpin many of their CJ principles and processes, and often mean that a policy having one effect in one country cannot have the same effect when transferred to a different one. Arguably, the more shared cultural patterns exist between the nation exporting a policy and the one importing it, the more likely it is that a policy can be imitated or transferred without causing significant issues. Conversely, if the two countries differ greatly in terms of cultural patterns and political economies, the policy transfer process can result in more major problems. Such situations can accentuate the tension which already exists between law in the books and law in action (Pound, 1910), or what Banakar (2015: 41) describes as the 'discrepancy between the law as a body of rules and as an institutionalised form of practice'. This is one of the reasons the thesis aims to highlight the particularities of the post-soviet, pro-European Romania and how these play a role in the transfer and implementation of OC policy.

The following sections in this chapter discuss both voluntary and coercive processes of CJ policy transfer which resulted in the global adoption of American-inspired policies against OC, and the implementation of Western-centric policies and priorities in Central and Eastern Europe (CEE). Much of the research on CJ policy transfer highlight the US as the source of the greatest number of exported ideas and practices' (Newburn and Sparks, 2004: 5; see also Jones and Newburn, 2002;

Garland, 1996). The international popularity of the ‘70s and ‘80s American rhetoric of ‘getting tough on crime’ in relation to OC in particular has been so significant that it has led some scholars to argue that OC policy was a vehicle for the ‘Americanisation of International Law Enforcement’ (Nadelmann, 1993: 247) throughout the western world and beyond. As this next section shows, past studies have looked at the phenomenon of OC policy transference from the US to the UK (Woodiwiss and Hobbs, 2009) and to Western Europe (Elvins, 2003; Fijnaut, 2014; Woodiwiss, 2003); however, comparatively less has been said about the exportation of OC control strategies as part of the Western foreign policy agenda in CEE after the fall of the Iron Curtain.

Western Europe and the Americanisation of law-enforcement

As outline above, the research by Nadelmann (1993), Woodiwiss and Hobbs, (2009), Bowling and Sheptycki (2012), Fijnaut (2014b) and Von Lampe (2016) shows that many governments came to adopt American-style legislation and policing against OC. This was the case within Western Europe, especially the UK, where the close relationship and politics of Reagan and Thatcher (the two having been described as ‘political soulmates’ – Abdullah, 2013), was followed by those of Clinton and Blair. This ‘chemic’ allowed for a smooth transfer of the OC rhetoric, policies and practices across the Atlantic (Newburn, 2002), largely through voluntary ‘lesson drawing’ (Newburn and Sparks, 2004).

Furthermore, once these took root in the UK, the country joined the US in the pursuit of what the Bureau of International Narcotics and Law Enforcement (INL) calls ‘global

norms for effective criminal laws' which, as Woodiwiss and Hobbs (2009: 123) explain, are in essence just Western norms. It should be said that the UK did previously have its own policies for drugs and 'serious crimes' (a term which is now used interchangeably with OC in the UK). However, as Woodiwiss and Hobbs (2009: 118) put it, 'policing of organised crime in Britain was always a relatively low-key and essentially local affair' which was policed locally at the time. The UK's discourse and, later, policies, around drugs and OC markedly changed after joining the US in the War on Drugs.

The legal imperialism of the US also affected continental Europe, where the distinct legal systems, coupled with the memory of foreign occupation during WWII, posed more issues to the adoption of American-inspired models against OC. At the beginning, tactics such as 'buy and bust' (whereby undercover operatives purchase drugs and then arrest the seller) and controlled deliveries (when a shipment of drugs or other goods is intercepted by law-enforcement but allowed to go ahead in order for them to gather evidence or secure arrests) were considered entrapment by many of the governments in Europe, and thus, inadmissible as evidence in a court of law.

However, this position shifted gradually as the DEA and other agencies were conducting what were effectively unsanctioned missions, but turning these into valuable pieces of evidence (Nadelmann, 1993). As this was 'proving' that the US model constituted effective policing against OC, slowly but surely, the American rhetoric which framed OC as a threat to national security gained ground against the

principles of human rights, accountability and policing by consent (Nadelmann, 1993; Woodiwiss and Hobbs, 2009; Bowling and Sheptycki, 2012).

Elvins (2003) adds to this, arguing that at the time Europe appeared to be increasingly worried about the securitisation of its own borders (also see Fijnaut, 2014b). It is true that the rapid process of globalisation gave rise to new criminal opportunities which mimicked the market flows of the legal economy (Woodiwiss and Hobbs, 2009; Bowling and Sheptycki, 2012). Concerning the style of law enforcement, some scholars argue that the EU had a vested interest in pursuing US-style legal arrangements, since they were predicated on a federalist logic of concentrating the resources and power centrally. Anderson *et al*. (1995) and Bowling and Sheptycki (2012) argue in a similar vein that in the 1990s the EU was keen on implementing reforms aimed at securing the Union's external borders and increasing the legal and operational harmonisation between member states.

Such reforms gradually led to the transfer of jurisdictional sovereignty and control over crime policies from the state-level to the union-level. At the same time, within the context of the War on Drugs, there was an alignment of anti-drug legislation and policies between the signatories of the Maastricht Treaty. This indicated that individual countries were interested in increasing the powers and resources of their central policing apparatus. As Dorn *et al*., (1996) describe, in the early 1990s there was:

> [...] a convergence of member states' policies in which police powers have been enhanced, penalties have soared, drugs intelligence systems developed,

> and the joys and pitfalls of pan-European police cooperation explored. (Dorn et al., 1996: 3)

Fijnaut (2014a) suggests that the EU's framing of OC as a major threat to the Union's security and integrity should not be taken at face-value: 'organized crime may well pose a threat to the EU and its citizens, but the policy that is being adopted in response also poses a threat, so to speak, to the sovereignty of the union's member states' (ibid: 587). In the same way that the UK joined the US in the foreign policy campaign of spreading their particular model of anti-OC enforcement, the EU also uses its internal and external policy agenda to 'interfere', according to Fijnaut (2014a), in other countries' (within and outside the EU) legal systems. It accomplishes this by requiring the implementation of certain policies in order for states to obtain member status or European funds. This is further facilitated by the various programmes and strategies, like the Stockholm Programme (a 5-year Union-wide strategy on justice, security and immigration) and the Internal Security Strategy (which provides guidelines for dealing with OC and terrorism- European Commission, 2011).

In terms of the adoption of American-inspired investigative strategies, the European criminal justice systems were generally not geared towards many of the 'high-policing tactics' brought over by DEA agents. These included 'buy and bust' tactics and other undercover operations (which were usually regarded as entrapment), extensive surveillance, controlled deliveries of drugs, the practice of paying informants or offering them immunity or a deal in order to 'turn' them against their co-offenders: 'throughout most of continental Europe, virtually all of these techniques were viewed,

even by police officials, as unnecessary, unacceptable, and often illegal' (Nadelmann, 1993: 192). Nadelmann goes on to explain that in the transition period to US-style law-enforcement, while many of the tactics described above remained illegal or at least questionable in European legislatures:

> 'judges, and even prosecutors, were often kept in the dark as to the exact nature of the agents' investigations, and all sorts of charades were concocted to obscure the true nature of many of the drug enforcement operations' (Nadelmann, 1993: 192).

This meant that such investigations were carried out with a lack of judicial oversight. It should be added that it was not only the DEA that contributed to the exportation of US policies and practices to the rest of the world; during the late 80s and throughout the 90s, a variety of training programmes were established, and were run by American agents for overseas law-enforcement (Beare and Woodiwiss, 2014). A good example of this is the International Law Enforcement Academies (ILEAs), with headquarters in Budapest, Bangkok, Gaborone and Roswell, which train police officers in combating strategies against various OC offences, like drugs and human trafficking, as well as cybercrime (ibid.).

These fast-paced changes which happened simultaneously in various countries raise an important question: if indeed much of Europe, with the exception of Italy, had no specialised strategies or agencies against drugs and/or OC during the late '60s, what could have happened over less than two decades to cause all these nations to implement major reforms to their legal systems and to rethink the principles which underpin policing and punishment? Either Europe had no drug problem beforehand, or it was not as serious, which, as historical research shows, is not the case (Fijnaut, 2014b) – although the discourse around crime and drugs was definitely less alarmist

and negative (ibid.; Nadelmann, 1993), or this problem was conceptualised completely differently.

For example, before adopting the American conceptualisation of drugs as a crime problem in general and as an OC problem more specifically, the UK perspective on narcotics focused on health: GPs could prescribe low doses of heroin and other drugs, in order to help wean people off the highly addictive substances (Nadelmann, 1993), and thus users were not labelled as criminals. After the US model was adopted, however, the focus became the criminalisation of dealers as well as users and the introduction of more and more punitive measures. In terms of dealing with drug trafficking and OC, these used to be treated as ‘serious crimes’ (that is, before the term OC entered the legal and law-enforcement lexicon), to be dealt with by local or regional police and were rarely escalated to the national level; it was only in the late 80s and early 90s that OC became a major talking point, leading to its elevation to the status of public threat/enemy, to be combated at the national level through highly specialised agencies, using DEA-style tactics (Hobbs, 2013).

While it is true that the patterns and strategies of OC groups have changed over time to mimic market trends impacted by globalisation, and now tend to operate across multiple areas within or between nations, Hobbs and others have argued that every offence committed by such a group is still inherently local and can thus be targeted by local policing rather than specialised (inter)national agencies (Hobbs, 1998). Despite this, in the case of the UK, Thatcher’s government took steps to assimilate US-inspired policies in many areas of economic and social governance, including in

the fight against OC. As a result of the UK joining the war on drugs in the 1980s, new institutions were created, tasked with gathering intelligence on OC and working to combat it, and the response to OC became increasingly militarised, involving the Royal Air Force and the Royal Navy (Woodiwiss and Hobbs, 2009).

More broadly, the motivations for Europe to adopt the reforms were, according to Fijnaut (2014), twofold: the imminent collapse of USSR, which was predicted to lead to an increase in criminal activity by Eastern-Europeans in western countries, and growing fears about the Italian mafias, at a time when the EU was looking at opening up the borders. Interestingly, this conceptualisation of OC as Eastern-Europeans and Italians denotes that the alien conspiracy theory had already taken root. Even though before, crime and OC used to be seen as a home-grown phenomenon, with the exception of the Italians, this was no longer the case.

As argued by Garland (1996), constructing criminals as *others* makes the public more accepting of increased punitiveness and less transparent policing, providing a potential explanation as to why even legal practitioners who had been opposed to certain investigative practices became acceptant of them. When the Sicilian mafia murdered Giovanni Falcone and Paolo Borsellino in 1992, two important Antimafia judges, and used bombs to kill civilians in three major Italian cities, the pressure finally became enough to put OC at the top of the European agenda of crime control (Sergi, 2017; Paoli, 2014). With the USSR now no longer a threat, the void in the discourse of Good against Evil was ready to be filled by a new enemy, and OC provided that opportunity – and the US would be leading the fight against it yet again:

> Just as it is abundantly clear that America cannot go it alone against global crime and terrorism, it is equally obvious that only America has the power and prestige to champion that cause, forge alliances, lead the crusade. We've done it twice before – in World War II and in the fifty-year struggle against communism. And we must do it a third time, and for the same reasons as before, so that those who would impose their will through deception and violence are vanquished and defanged (Senator John Kerry, 1997, cited in Beare and Woodiwiss, 2014: 546)

In essence, OC has been, alongside terrorism, a 'vehicle' for the globalisation (or, as Nadelmann, 1993, puts it, the Americanisation) of law-enforcement. It provided justifications for the transfer of some of the sovereign power of individual states to international organisations like the EU and the UN. This was similar to how it had provided a justification for the elevation of OC control from the local to the national level in the 1950s in the US. Both these shifts took place following a successful campaign to popularise the moralist-alarmist discourse around OC, one based on the alien conspiracy theory. In the US case, this was in order to legitimise increased police powers and government spending, as well as to provide a justification for a decrease in police transparency and accountability, at least in terms of an expansion of high policing. At the international level, the change was brought about by the inevitable process of globalisation, the influence of the US via its foreign policies, as well as national interests in pursuing a US model for combatting OC.

The analysis of anti-money laundering (AML) policy and the growth of the Financial Action Task Force on Money Laundering (FATF) accurately exemplify this latter point. As Van Duyne and Nelemans (2011) point out, US efforts resulted in AML provisions being introduced in various UN Conventions and international documents in the 1980s. These documents linked drug trafficking with large illicit profits, said to be capable of destabilising whole legal economies. In so doing, money laundering

was elevated to the status of transnational threat, alongside OC, facilitating the creation and global adoption of ‘a new anti-money laundering regime’ (Van Duyne and Nelemans, 2011: 40). This culminated with the founding of FATF following the G7 summit in 1989. FATF quickly became an internationally recognised ’policy-making body which works to generate the necessary political will to bring about national legislative and regulatory reforms’ (FATF, n.d.) in the areas of money laundering and terrorism financing. The global acceptance of FATF and adoption of AML legislation are arguably some of the most successful elements of US legal imperialism.

While there is no transnational police agency to hold all the policing power at the international level, parts of that power have been taken over by various international organisations – for example INTERPOL, EUROPOL, SELEC (Southeast European Law Enforcement Center). Furthermore, national and regional policing systems have become more harmonised, following an American model and adopting US-style policies and strategies. These usually include the prohibition model for drugs and other ‘vices’, centralised intelligence-led covert policing and an increasingly militarised response, extradition and asset forfeiture provisions, surveillance and a focus on drug trafficking and money laundering as the main OC problems.

In the case of the EU, these changes have led to a shift in the balance of responsibilities where OC is concerned. This led to a system in which the responsibility and, implicitly, the authority for policing OC are shared by member states and the Union’s supra-state institutions. As Fijnaut (2014a) argues, due to the

interference of the EU in the policing of OC, member states have had to and will continue to have to amend their legislation and change the way their public services and criminal justice systems operate, in order to further integrate into a Union-wide strategy against OC. Although, considering that even the term OC means something very different in the UK compared to Italy or Romania, a complete harmonisation of OC policies would entail either very vague/general EU guidelines, or a widening of national OC policies to include elements from every country's definitions.

The globalisation and harmonisation of law-enforcement is not inherently problematic. The difficulties arise when this process, as is often the case, is used by 'seigneurial states' (Bowling and Sheptycki, 2012) to push their own brand of OC policing onto other less powerful countries. In other words, law-enforcement agents and diplomats from the more powerful states 'have a technological edge that gives them the upper hand in influencing the nature and extent of the global policing mission' (ibid.: 6). This leads to an unbalanced process of policy transference, where one side provides the model, while the other party does all the accommodating. As the section below will show, this power imbalance was fairly evident during the transition of CEE countries to democracy, when the majority of them implemented a series of reforms which would help integrate them into the wider European and international law-enforcement systems.

Furthermore, with the continuing internationalisation of crime control and elevation of responsibilities from state-level to Union-level, there is also the issue of legitimacy, as well as a change in the significance of the social contract and the idea of policing by

consent. Bowling and Sheptycki (2012) argue that the agreements and conventions which formalised police cooperation within the EU at the end of the 20th century have more often than not encroached on civil liberties and lacked the usual democratic oversight and checks and balances that a national policing system would be subjected to as part of a well-defined Lockean social contract, with its principle of separation of powers.

Apart from war on drugs and the US' neo-colonial practices, the media, moral entrepreneurs and politicians have also contributed to OC becoming an important concept which, to an extent, came to define crime control policies in the 90s in much of Europe (Paoli, 2014); according to Fijnaut (2014b: 86) 'the growing alarm about serious crime among police officials, which was echoed by journalists […] introduced the term organized crime in Germany and the Netherlands, which was coined in the United States and until then had never been used in Europe'. Fijnaut (2014b) also points out that OC reforms posed significant challenges due to the different legal systems, as well as conceptual differences between the EU member states as to what OC actually refers to.

In an attempt to unify these differing perspectives, the EU came up with a checklist of characteristics of OC, which could be used to determine whether a certain criminal group constituted an OC group. This checklist is similar to the diagnostic tools used in psychiatry, whereby a certain number of symptoms need to be checked off in order to establish a diagnosis; in the case of OC, a group had to meet six out of eleven conditions, which had to include the following characteristics: 'collaboration of more

than two people; for a prolonged or indefinite period; suspected of the commission of serious criminal offenses; motivated by the pursuit of profit and/or power' (Council of The European Union, 2000[1997]: 12-13).

The issue with this type of practice, of trying to create international and transnational frameworks in which to include everything everyone considers OC, is that it stretches the definition of OC to the point that it can be applied to almost anything. Indeed, whereas during the phase of exporting OC policies from the US elsewhere the problem was the lack of similarities between nations, with this opposing approach of creating the lowest common denominator and using it to generate national and transnational policies against OC, the concept loses all its meaning and is open to being manipulated as everyone sees fit. As Fijnaut (2014b) puts it:

> Regardless of the conceptual differences within and between the member states of the European Union and the discrepancy between the problems encountered in western Europe and the United States, since 1985 organized crime has become one of the issues that the member states are taking pains to address in their crime policies. (Fijnaut, 2014b: 86)

At the time the EU was created, it represented a major shift from national governance within each member state to a transnational-state-system of governance (Bowling and Sheptycki, 2012), a trend which continued into the 21st century with the Union's expansion into CEE. By that point, the American OC rhetoric and the resulting policies and strategies had already been internalised by the EU (with a few exceptions, such as Italy). In addition, international fora like the UN were also promoting the same paradigm around the world. This issue maintains its salience within the current context, in which further integration and a potential federalisation of

the European Union, particularly with regards to the military and law-enforcement fields, are central to the debate about the future of the Union.

Policing organised crime in Central Eastern Europe

According to Gorkič (2012), CEE countries began introducing some of the OC policing strategies relatively early during the transition, before the concept of OC was clarified and codified in their respective national legislations. This was because of an apparent increase in transnational crime after the change of regime and the loosening of borders. Gorkič points out that in some instances, the implementation of anti-OC policies took place with 'notable influence from abroad' (ibid.: 97). By the late 1990s, Adamoli *et al*. (1998) show that Hungary, for example, considered the organised element of a crime to be an aggravating circumstance and other countries had adopted rather wide definitions of OC. According to Scheinost and Diblikova (2008), although the Czech Criminal Code was amended in 1995 to include provisions on criminal conspiracies, it was only a few years later that prosecutions began to take place.

One factor which may explain the introduction of some of these strategies and policies, apart from a perceived increase in rates of OC, is that some of the CEE countries were in the process of becoming EU members. The EU Pre-Accession Pact on Organised Crime (1998) required that future members of the Union 'take steps both towards instituting new organisational measures for fighting OC and securing adequate powers of investigation' (Gorkič, 2012: 102). Some of the provisions of the Pact included: strengthening international cooperation; the creation

of specialised central bodies for fighting OC; training; setting up anti-corruption and money-laundering bodies/policies; introducing witness protection, electronic surveillance, undercover operatives and controlled deliveries; and data protection (ibid.) for instance. As these countries' successful applications to join the EU were conditioned on the adoption of the measures described above, the policy transfer process in this case could be described as somewhat coercive (Newburn and Sparks, 2004).

Interestingly, while one of the first moves after regime change was for countries to enact reform leading to the decentralisation of their police forces and curbing their covert investigative powers, the EU provisions on the fight against OC paradoxically included the reversal of that reform. In fact, it pushed CEE states to strengthen their secret policing capabilities. But it was also the EU, among others, that emphasised the need for CEE countries to transition to a system of democratic policing, which meant: an increase in transparency and accountability; the introduction of checks and democratic oversight; and the implementation of human rights as per the ECHR. After all, democratic governance and the primacy of the rule of law are basic requirements of acceptance in the EU (Fijalkowski, 2007). Democratic policing has been defined as a set of core values and norms which are:

> '[. . .] characterized by an orientation to service for civic society, rather than the state; transparency and accountability; the representativeness of personnel [. . .]; integrity management as a central function of police administration; a semi-autonomous status of the police organization and system; the treatment of police as citizens; and the possession of skills needed to perform allocated tasks efficiently and effectively.' (Caparini and Marenin, 2005: 2)

Of course, the ideological element of the concept of ‘democratic policing’ should be noted. It is the ideal of policing, at least in principle, in most Western societies, and in nations which want to adopt the same democratic values. At the same time, it is placed in opposition to what is perceived as totalitarian policing, a system of policing involving secrecy and violence, one that is opaque, centrally-organised and aimed at preserving the ruling order (Fijalkowski, 2007: 158). Therefore, on one hand, the EU and other Western democracies were criticising the previous regimes’ totalitarian policing, as well as any remnants present in the post-communist governance of CEE states. On the other hand, where OC was concerned, the future members of the Union were made to create centrally-run special investigative agencies for OC and to introduce legislation for the use of investigative powers. These concern the use of surveillance, informants, undercover operatives and other such tactics which, in the wider context of the communist regimes, were considered abusive and totalitarian. In other words, while the initial push was for national police to become decentralised and transparent, central policing agencies were then still ‘required’ by the EU and others when it came to policing OC. As Gorkič (2012) observes:

> ‘[…] the legitimacy of policies on policing OC lies in the legitimacy of the democratic society. The police policies feared most in pre-transition regimes – secret, with all-pervasive surveillance and control – are deemed illegitimate by the very nature of the regime such policies serve. Applying the same methods in a different normative environment is, however, deemed acceptable.’ (Gorkič, 2012: 111)

Are (Western) OC policing styles at odds with the ideals of democratic policing? They consist of similar tactics to those used in pre-transition regimes in order to preserve the status quo, which were at that point considered undemocratic. On the one hand, a crucial element of reform was the shift to policing for the people rather than for the state in order to increase police legitimacy. On the other hand, when it comes to OC it is considered acceptable for this principle to be replaced by policing for a higher transnational order, far removed from the citizen. These contradictions created a tension which Romania, like the other CEE countries which became part of the EU, had to try and accommodate as best as they could. This must be viewed in a post-communist context, in which the police and intelligence services were extremely distrusted by the people. The following section will outline the emergence of OC policing in Romania and highlight some of the key ways in which both the EU and the US actively shaped OC policy and policing in Romania.

Combatting organised crime in Romania

Between the Second World War and the 1989 revolution which toppled Ceausescu's communist government, there was little to no interaction between Romania and the West in terms of legislation and law-enforcement cooperation. As a result, Romania's criminal policy was not influenced by the Western rhetoric on OC. In fact, there was no legislation pertaining to OC during the communist regime. That does not imply that there were no offences which are now considered OC – or indeed, legislation addressing criminal groups. However, after the fall of Ceausescu and the rest of the communist governments in Europe, mounting fears about criminal organisations travelling West from former communist countries led the US and EU to intervene by

providing training and support to law-enforcement agencies, in order to ‘stabilise’ the region.

According to Menarchik, Romania and other CEE countries were ‘close to the epicentre of non-traditional threats to regional security, for which they are not properly equipped’ (1994, cited in Albu, 2007: 171). By non-traditional threats Menarchik was referring to OC, drug trafficking and terrorism, which he predicted would pose more danger to the region than any conventional inter-state conflict (in Albu, 2007). Interestingly, this early rhetoric on OC in CEE closely mimics the American one, using war-related language to construct OC and drugs as threats to national security.

Additionally, despite the lack of reference to human trafficking, this phenomenon was argued by many to have been a major OC issue in Romania and the CEE area. In fact, some of the early significant instances of cross-border police cooperation in CEE were focused on tackling human trafficking (for more details on the SECI Mirage operations, see Papanicolaou, 2011). The emergence of ‘the new prohibition regime on human trafficking’ (Papanicolaou, 2011: 128) coincided with the collapse of the communist regimes across CEE, and the ensuing international, regional and national power struggles, as well as much legal chaos and economic deterioration. These factors have, on one hand, facilitated the increase of the phenomenon of human trafficking; on the other hand, they contributed to the internationalisation of law-enforcement against human trafficking and OC.

In any case, as per Menarchick and others' such predictions, the US and the EU employed resources to support the governments in transition through training and technical assistance. For example, according to the 1998 US International Crime Control Strategy, the US used funds from its Department of State to work with the Romanian government (and others) in order to 'design and implement a long-term anticorruption program, to build local institutions and to strengthen Romania's capacity to fight organized crime' (White House, 1998: 52). Other trainings included anti-smuggling techniques, train the trainer courses and recognising and investigating white-collar crime. There was also a provision for the implementation of extradition treaties (ibid.). Furthermore, the document mentions that:

> 'The Administration will continue to promote joint case work between U.S. law enforcement agencies and their foreign counterparts and has institutionalised cooperative agreements that allow information sharing and collaboration in crime prevention, investigations and prosecutions.' (The White House, 1998: 54)

This is just one example illustrating the strategies of the American neo-colonial project for Eastern European law-enforcement. Another initiative by the US government was the establishment in 1995 of the International Law Enforcement Academy (ILEA) in Budapest, Hungary. This created a forum in CEE for the proliferation of US-inspired definitions and practices pertaining mainly to OC, financial crime, smuggling of radioactive material and drug trafficking (White House, 1998).

The US, as well as the EU, offered financial and technical support for the creation in 1998 of the Southeast European Cooperative Initiative (SECI), headquartered in

Bucharest, Romania. In 2007 becoming the Southeast European Law Enforcement Centre (SELEC), it was constructed as a regional body to oversee the prevention and combating of transnational serious and organised crime in its 12 member states, including countries from outside the EU (SELEC, no date). Looking at the case of SECI more specifically, Papanicolaou (2011) highlights that the organisation was created with US funds, using American experts and know-how and involving organisations such as the FBI and the US Immigration and Naturalization Service in its operations. Although it was constructed as a Southern and Eastern Europe cooperation body, to focus on the specific problems in the region, the fact that the training and experts were provided by the US further contributed to the proliferation of the American discourse on OC within CEE. These types of organisations have been argued to contribute to a decrease in the accountability of national law-enforcement systems. As argued by Papanicolaou (2011):

> Today, a domain of transnational police activity has emerged, which appears less controllable by the institutions to which policing has traditionally been accountable, and which, more generally, is less accessible to public scrutiny. (Papanicolaou, 2011: 4)

The current Romanian OC policing landscape includes many different agencies, teams, subdivisions, and services, some of which overlap in function. One such example are the agencies charged with investigating and combatting corruption and organised crime. The clear separation between the Directorate for Investigating Organised Crime and Terrorism (DIICOT) and the National Anti-Corruption Directorate (DNA) is a reflection of how the phenomena of corruption and OC are conceptualised in the Western paradigm of OC. Notwithstanding, this separation has

been criticised for being inaccurate and misleading both by researchers (Center for the Study of Democracy, 2004, 2010; Kupka and Mocht'ak, 2015) and by practitioners (Romanian Police Commander Dr Jănică Arion-Ţigănașu, Director of the General Anticorruption Directorate (Directia Generala Anticoruptie MAI, 2011)) in Romania and other CEE states.

As the post-communist literature shows (Center for the Study of Democracy, 2010; Directia Generala Anticoruptie MAI, 2011; Gounev and Ruggiero, 2012; Karstedt, 2003; Kupka and Mocht'ak, 2015; Rawlinson, 2010), in the East of Europe the two phenomena are perceived as closely connected, as one is rarely discussed without the other. 97% of the practitioners surveyed by a General Anticorruption Directorate research team perceived OC and corruption to be interrelated, while 79% argued that a sizeable proportion of corruption in Romania is caused by organised criminality (Directia Generala Anticoruptie MAI, 2011). At the same time, the relationship between corruption and OC is also perceived as more equal, in the sense of already corrupt individuals working with criminals, rather than what has long been described in the US and Western Europe (with the exception of Italy) as a process in which OC corrupts otherwise moral, innocent individuals to do their bidding.

The structure and activity competing paradigms of organised crime

The above analysis of the concept of OC through history highlights two very different paradigms which to this day still underpin policy, practice and discourse: the criminal organisation model, focused on structure, and the enterprise or activity model, based on specific offences related to providing illegal goods and services (Paoli and Vander

Beken, 2014). It should be noted, however, that these terms can be confusing – for instance, although ‘enterprise’ is used in this paradigm to refer to illegal activities, in reality it is synonymous to organisation, firm and business, so one could be led to believe that it refers to the organisation model (and some writers use the notion to mean both – see for example Paoli, 2014: 4 and Paoli and Vander Beken, 2014: 18-20).

The alien conspiracy theory is an example of the criminal organisation model of OC, as it assumes that OC is caused by large, stable organisations which are criminal in and of themselves (Paoli and Vander Beken, 2014). Theories of OC which focus on structure generally refer to mafia-type organisations, like the Cosa Nostra, ‘Ndrangheta, the Triads, drug cartels etc. While it would be wrong to suggest that these types of organisations do not exist – as the previous examples show they do – they are a rarity. As Sutherland (1934) and Fijnaut (2014) show, such organisations emerge as replacements for the state, when and where the latter is unable to provide protection and care to its people. They are dependent on the state’s weakness and thus are likely to disappear or at least lose much of their power when governance reaches a level where it can provide what the population needs.

This perspective on OC also regards criminal organisations as ‘rationally designed’, structured according to a clear (often pyramid-like) hierarchy and with a division of labour (Cressey, 1969). As with the alien conspiracy theory, the structure paradigm has been criticised for its racist undertones and for essentialising minorities, immigrants and the poor, as well as for being politically-driven and inaccurate (Smith,

1975; Moore, 1974). Some critics have even argued for the replacement of the term ‘organized crime’ with ‘illegal/illicit enterprise’ (Smith, 1975), in order eliminate the negative connotations.

The activity model is centred on the illegal activities involved in the provision of illegal goods and services on the illicit market (Paoli and Vander Beken, 2014). It is not concerned with what structures criminal groups assume when conducting their business, but focuses on specific offences such as drug and human trafficking, gambling, racketeering – the same ‘vice crimes’ which had, at least in the past, been associated with certain minorities, immigrants or the poor: ‘organized crime [should] be defined as (or perhaps better limited to) those illegal activities involving the management and coordination of racketeering and vice’ (Block and Chambliss, 1981: 13). It is not clear why these crimes are considered more deserving of the ‘organised crime’ label than fraud or other types of ‘white-collar crime’ (Sutherland, 1949).

Furthermore, while departing from the ethnically-charged conception of OC as per the alien conspiracy theory, the activity model has contributed to a watering down of the notion. Work by academics like Reuter (1983) challenged the assumption that large criminal organisations or conspiracies were primarily responsible for the most serious of criminal activities; with that, and law-enforcement’s realisation that mafia-type organisations did not monopolise illegal markets, the definition of OC was stretched to also include other organisational types, like informal networks, gangs and ‘[according to] some … co-offending by more than two perpetrators’ (Paoli and

Vander Beken, 2014: 14; also see Finckenauer, 2005). As concluded by Paoli and Vander Beken:

> Whereas the term organised crime still has strong evocative power, which undoubtedly explains its political success, the many different criminal actors and activities that have been subsumed under this label make it a vague umbrella concept that cannot be used, without specification, as basis for empirical analyses, theory-building, or policy-making. (Paoli and Vander Beken, 2014: 14)

Some academics have argued, more recently, in favour of narrowing the remit of the label of 'organised crime' by establishing some clear elements representative of 'actual' organised crime. For example, Finckenauer (2005) distinguishes between criminal organisations – referring to those criminal networks which possess a hierarchy of authority, division of labour and continuity over time – and simple criminal networks, lacking either criminal sophistication, structure, self-identification, or authority of reputation. He argues that '…there is real danger, generally, in the promiscuous use of the label of organised crime with reference to perpetrators of 'crimes that are organised'' (Finckenauer, 2005: 78) in that, when the label of OC is wrongfully used by law-enforcement, they unwittingly confer more power and reputation to groups which had none to begin with.

Moreover, Block and Chambliss (1981) warn that this vagueness of terms can easily be manipulated by those in power, arguing that in the past it has been exploited by Nixon's administration and used against his political dissidents. Practitioners, too, have become aware of the imprecision and many conflicting definitions of OC; in a report on the evaluation of the Palermo Convention Against Transnational Organized Crime, Standing (2010: 3) suggests using the more benign 'fleeting organised crime'

when referring to non-mafia type groups. Reuter (1983) uses the term ‘disorganised crime’ for the same typology. If we were to analyse nowadays the statement of the Kefauver Committee that OC is ‘in control of the most lucrative markets’ (US Senate, 1951: 131) in the illicit economy, it would ring truer now than it did when the statement was first made; due to such vague definitions, OC has been made to *actually be* in control of these markets, because anything operating on those markets is now considered OC. As Paoli and Vander Beken conclude:

> The policy definitions of organized crime have been so watered down that policymakers and law enforcement officials seem to assume, at least implicitly, that all offenders engaging in profit-making criminal activities fulfill the definitional requirements and thus belong to organized crime. (Paoli and Vander Beken, 2014: 23)

The concept of seriousness in OC discourse

The notion of ‘serious’ OC is very relevant to the conceptualisation of OC, and is central to the argument in this thesis. As the chapter on anti-OC legislation shows, in legal terms it relates to the sentencing of crimes in general, and OC in particular. In a broader sense, the concept of ‘seriousness’ has been used in the rhetoric on OC in order to generate moral panics and evoke a sense of urgency for tackling the phenomenon. For example, US President Richard Nixon described drugs as ‘a *serious national threat* to the personal health and safety of millions of Americans’ (1969, cited in Woodiwiss, 1988: 221 – 2). Moreover, Shelly (1999: 32) argues that the post-soviet legacy during the transition years in former USSR states ‘established the necessary preconditions for the development of a *serious and sophisticated* organized crime problem’.

As far as academic scholarship is concerned, the concept of ‘seriousness’ of OC has been analysed at length by van Duyne (1969) who terms those crimes which are deemed more serious as ‘heavy crimes’ and argues that the media and the authorities have very little interest in more mundane and less glamorous aspects of OC, such as ‘the multi billion business of organised VAT and excise fraud schemes’ (1969: 17). Sergi (2017) argues that the use of the notion of ‘seriousness’ in conjunction with OC facilitates the policing and prosecution of OC offenders by focusing on the perceived gravity of the crime rather than the organisation. It also contributes to the securitisation discourse on OC, which in turn justifies the use of ‘intelligence regimes, policing responses and preventative countermeasures’ reserved for dealing with national security threats (2017: 30). The discourses underpinning this securitisation paradigm often associate certain forms of OC with terrorism and other threats to national security in order to elevate the perceived risk of OC and, consequently, reinforce the imperative to take swift, decisive action to combat these crimes. Sergi (2017) also highlights an interesting distinction with regards to the conceptualisation of seriousness between the UK and Australia, where ‘serious’ is synonymous with ‘dangerous’, and US and Italy where the term is used to refer to an OCGs ability to corrupt and infiltrate legal businesses, politics and institutions (Sergi, 2017: 220). It is clear, then, that the idea of seriousness is tightly linked with the concept of OC and very present in the rhetoric regarding the phenomenon.

As the empirical chapters will show, the concept of seriousness in relation to OC also becomes central to the argument in the present thesis. As a way to theorise the comparative lack of OC law-enforcement interest in certain crimes (such as illegal

logging), I introduce the idea of an OC *hierarchy of seriousness,* predicated on Western crime-fighting priorities and Americanised conceptualisations of OC. The idea of a hierarchy of seriousness concerning OC is inspired by Christie's hierarchy of victimisation (Christie, 1986: 18), which describes the readiness with which a victim's status is recognised and legitimated by the state, depending on the characteristics of the victim and the crime.

In Christie's argument, the 'ideal victims' who fit the stereotypical conceptualisation of innocent, weak victims who deserve help and compassion are very likely to have their status recognised by authorities throughout the criminal justice process (from the police in the investigative phase to the judges and jurors assessing the evidence in their case), as well as by the media and society more generally. The typical example to illustrate this is an older, vulnerable (usually white) woman who falls victim to a mugging or burglary. Recent cases which have received significant media coverage such as the sexual assault and murder of Sarah Everard, or the abuse and murder of Arthur Labinjo-Hughes and Star Hobson also involve 'ideal victims' who were both innocent and powerless in relation to their killers; as such, their victim status was never questioned.

Comparatively, when the victim is not perceived as being completely innocent and fitting the ideal victim label, they are generally seen as less deserving of help due to their contributing to their own victimisation. An obvious example would be the treatment of sex workers in some jurisdictions, who continue to be at least stigmatised, and often still criminalised, for providing sexual services, and as a result

are seen as being partially blameworthy for their victimisation and less deserving of justice. Therefore, Christie (1986) argues, there is a hierarchy of victimisation which ranks victims of crime based on how innocent and deserving of help they are, influencing the outcomes of CJ proceedings and the media and social response to the victimisation.

In later chapters I will argue that, similar to how the hierarchy of victimisation results from the stereotypical conceptualisation of victimhood, there is a hierarchy of seriousness with regards to OC which is based on the stereotypical conceptualisation of OC. In other words, those crimes which most closely fit the typical American/Western European-inspired understanding of OC, such as drug trafficking, human trafficking and money laundering, are the most likely to be conceptualised as 'serious', regardless of their extent or harm in a particular area. Conversely, criminal activities which do not fit the stereotypical idea of OC rank lower in the hierarchy of seriousness, even when their relevance and impact are particularly significant in a community.

An example which is particularly pertinent to my analysis in later chapters is that of OC in the realm of environmental, or green crime. While the role of OCGs in transnational environmental crime (TEC) is recognised by the UNODC (Conference of the Parties, 2010) and other organisations, it is quite clear that the phenomenon is not considered to be as 'serious' as other OC activities. For example, according to a report by INTERPOL and the UN Environment Programme (2012), environmental

crime appears to be of concern primarily because of its association with more 'serious' threats:

> particular concern was expressed [...] on the scale of environmental crime and the connection with organized transnational crime, including issues of smuggling, corruption, fraud, tax evasion, money laundering, and murder' (INTERPOL and United Nations Environment Programme, 2012: 2)

In other words, environmental crime is not necessarily considered serious in and of itself and only becomes concerning when it is related to more serious OC. This example illustrates the concept of the OC hierarchy of seriousness – as environmental crime is not stereotypically associated with the concept of OC, it is seen as less serious unless it is connected to more serious OC offences (White, 2016). This in turn leads to vastly different responses in terms of law-enforcement, a theme which I will discuss at length in the second and third empirical chapters.

Conclusions

To summarise, the concept of OC emerged in the US as a result of a moralist, racist, exclusionary rhetoric seeking to criminalise and marginalise immigrants, Black people, the poor and others who did not conform to the White Anglo-Saxon Protestant mores which dominated American society in the 20th century. The vague term (and the moral panics which became associated with it) became a useful discursive tool to justify the extension of police powers to the detriment of personal liberties. As a result of the war on drugs and the US' foreign policy agenda, aided by Hollywood depictions of mysterious gangsters with foreign accents, the concept of OC was slowly introduced into the vocabulary of people and law-enforcement across

the world. This mimicked a more general trend of what some scholars call the Americanisation of global law-enforcement, whereby US crime policies become dominant and are transferred into other criminal justice systems.

Prior to the ratification of UNTOC, the UK and other Western European countries had started using the notion of organised crime, with its discriminatory undertones couched in a securitisation discourse, and identifying their own potential OC threats. As a result, after the Convention was signed by EU nation states, as well as the EU itself, effective anti-OC policing and legislation became prerequisites for the acceptance of any new countries into the Union. It was in this context that Romania, alongside other CEE countries, were pushed to import OC legislation and create specialised anti-OC units to investigate and prosecute the newly criminalised phenomenon. This chapter has briefly suggested that the processes involved in policy transfer can have negative consequences, especially when the countries involved have significant differences in their cultural patterns and political economies. As the empirical chapters will point out, in the case of Romania this has caused a series of issues, both in terms of legislation and in law-enforcement practice, and has led to the adoption of a rather rigid, Western-centric socio-legal conceptualisation of OC.

Chapter 3. Methodology

Introduction

As the previous chapter shows, while the literature on organised crime (OC) and policing is quite extensive, a lot of it focuses on the Anglo-Saxon and Western European space. As such, there is comparatively limited research looking at the emergence of the concept of OC and related policies in Central and Eastern Europe (CEE). Considering the gaps in literature identified in the previous chapter, this doctoral research project sets out to address them by looking at the impact of American and European Union policies against OC in Romania, and the consequences of OC policy transfer (Jones and Newburn, 2002). The project ultimately questions the suitability of a Westernised global conceptualisation of OC and resulting policies.

The present chapter[4] will first outline and justify the research design I used to answer the research questions outlined in Table 1 below. Secondly, I will discuss how the access issues I have experienced as a result of distrust and law-enforcement organisational dynamics meant it was necessary to deviate somewhat from the initial research design. Thirdly, I will describe the process of data collection and give a more detailed account of my experiences interviewing high-level anti-OC police officers and prosecutors, after which I will reflect on some of the ethical issues,

[4] Parts of this chapter were previously used in a research proposal draft submitted for assessment in an MSc research methods module.

cultural particularities and overall difficulties of the research design utilised in this project. Lastly, I will briefly describe the data analysis process.

Research design

Table 1

Research questions	Research objective	Research method
To what extent have American and European Union policies against OC been transferred to Romania and influenced its activity against OC? To what degree has Romania accepted, implemented, and absorbed these policies?	RO1: to analyse the socio-legal construction of OC in Romania	Document analysis
Does the routine activity of anti-OC law-enforcement and prosecutorial agencies reflect the Romanian legal construction of OC or the global/Western conceptualisation of OC?	RO2: to observe how anti-OC practices are actually implemented by various agencies on a daily basis	Ethnography
Are current Romanian anti-OC policies and strategies perceived to be effective by the Romanian police, Anti-OC Directorate and other CJ agencies involved in policing OC? What are the effects of CJ policy transference and the usefulness of international, regional, and national policies against OC and other transnational threats? To what extent do these policies play out in different, local, ways within Romania?	RO3: to examine the perceptions of CJ actors regarding OC, and consider how these relate to official legislation and actual OC policing in Romania	Qualitative and elite interviewing

Initial research objectives and research design

The initial proposed research design methodology consisted of three main elements: document analysis, small-scale ethnography, and elite interviewing. These methods were intended to elucidate, respectively, the legal construction of OC in Romania (RO1); how anti-OC practices are implemented by law-enforcement and

prosecutorial agencies on a daily basis (RO2); and the perceptions of CJ actors regarding OC, as well as regarding legislation and OC policing in Romania (RO3) (see Table 1 above).

Aside from Romania being an excellent location for me to conduct my research due to its communist past, EU and NATO membership and general aspirations towards Westernisation, the fact that I am Romanian, and my family lives there meant it was relatively easy for me to identify gatekeepers and gain access to some of my participants (a process which I discuss in greater detail in the next section). The original plan was to conduct the bulk of the research in one major Romanian city, 'Samsburg'[5], with a few interviews and observations in a border town, 'Tistown'[6], investigating the transnational element of Romanian OC and OC policing. However, as the next section on access will show, I was not able to carry out the ethnographic elements of the proposed research design and had to adapt my design as a result, to focus on the elite interviews and document analysis. Moreover, instead of focusing my fieldwork on two locations, I ended up travelling across the country, interviewing anti-OC law-enforcement officers and prosecutors operating within a wide range of local contexts – large cities, small towns, border locations and maritime ports, the capital city – each with their own sets of challenges and experiences.

In the end, my data-collection consisted of 30 elite interviews with 28 individuals (See Table 2 below), as well as documentary analysis of OC case files, national

[5] Location names have been changed to facilitate anonymisation
[6] Location names have been changed to facilitate anonymisation

legislation, and international conventions in order to analyse the legal construction of OC in Romania. With regards to RO1, as the first analytical chapter will show, I studied the previous Romanian legislation on criminal association, the 2003 law defining and criminalising organised crime groups, as well as the 2014 reform to that law, in order to find out how the concept of OC has emerged and changed in Romanian legislation. I also looked at related legislation where relevant, for example regarding contraband and drug trafficking. I then compared these documents with ones laying out international legislation on OC, namely UNTOC and the EU Framework Decision on OC, in order to highlight the similarities and differences resulting from the policy transfer process.

The document analysis involved the study of these policy documents and the discourse embedded in them, as well as the analysis of a case file on cigarette smuggling which I was given access to when I conducted my research on the border with Ukraine. The analysis of the latter included studying the case details, as well as the preamble, which outlines the justifications for the prosecution and links them to the legislation and official discourse on cigarette smuggling. This case file, alongside some of the interviews I carried out at the border, informed the analysis and findings in the section on cigarette smuggling in Chapter 5. The aim of analysing and comparing these legal documents was to get a better understanding of the Romanian legal conceptualisation of OC and its origins, to address the research questions related to the Americanisation of law-enforcement, and to elucidate the context and factors which may have shaped my respondents' perspectives.

Table 2

#	Name	Role	Duration	Recorded Y/N
1	Laurențiu	Anti-corruption officer	4h	Y
2	Traian	Anti-OC Chief prosecutor	1h10	N
3	Titus	Legal practitioner, academic	2h	Y
4	Nicolae	Legal practitioner, academic	1h30	Y
5	Ovidiu	Head of anti OG brigade (retired)	1h40	Y
6	Ivan	Securitate and head of anti OG brigade (retired)	2h	N
7	Razvan	Head of anti-OC brigade	1h30	Y
8	Anton	Anti-OC officer (drugs)	1h30	Y
9	Dan	Anti-OC officer (cybercrime)	1h50	Y
10	Dumitru	Head of Anti-OC brigade	3h30	Y
11	Maxim	Anti-OC officer (drugs)	1h30	Y
12	Gabriel	Anti-OC officer (illegal migration)	2h	Y
13	David	Forensic specialist officer	1h30	Y
14	Maria	Forensic specialist officer	1h	N
3b	Titus (2nd)	Legal practitioner, academic	1h10	Y
15	Dacian	Undercover drug officer	3h10	Y
16	Petre	Police officer	1h	Y
17	Vlad	Head of anti-OC brigade	1h30	N
18	Mihai	Former anti-OC officer	1h20	Y
19	Adrian	Chief county prosecutor	1h	N

20	Sorin	Anti-OC Chief prosecutor	1h30	Y
21	Marin	Head of anti-OC brigade	1h30	Y
22	Vasile	Head of anti-OC brigade	1h20	Y
23	Liviu	Head of anti-OC brigade	2h	N
24	Bogdan	Anti-OC officer (drugs)	1h30	Y
25	Angela	Anti-OC officer (illegal migration)	1h50	Y
26	Octavian	Head of anti-OC brigade	1h10	Y
27	Tudor	Head of anti-OC brigade	1h20	N
2b	Traian (2nd)	Anti-OC Chief prosecutor	50min	N
28	Raul	Anti-OC officer (drugs)	1h	N

Participants' pseudonyms, roles and interview duration

With regards to my interview participants, the majority of them were either active or retired law-enforcement officers in the anti-organised crime squads and brigades, as well as some prosecutors and legal scholars. One of them had been an officer in the secret police 'Securitate' during the communist regime and became the head of one of the first anti-OC brigades once these were established during the transition period. The interviews were semi-structured and ranged in length from 1h to 4h30min. I had a list of questions to start the conversation (see Appendix III), but I did not insist on asking all the questions of all the individuals. I chose to focus instead on interesting lines of argument which emerged from the discussion and letting the participants steer the conversation within the framework I had set. Thus, a flexible approach which enabled me to adapt to emerging issues was best. As such, this research

project was less concerned with what OC *is*, per se, and more with what it is *perceived to be* by the various stakeholders (Taylor et al., 2015).

My goal was to understand the phenomenon of OC from the participants' perspective (Corbin and Strauss, 2008). Indeed, as the findings will show, what individuals consider OC to be shapes both legislation and law-enforcement practices to a large extent. I had initially considered doing unstructured interviews, preparing only a short list of themes to start the conversation. However, I quickly noticed that most of my participants expected me to ask them specific questions and felt more at ease when I complied. As a result, I began frontloading the interviews with some easy, narrow questions (starting with general demographic information, education and professional qualifications, experience) before gradually moving on to broader and more complex ones.

In any case, the first few interviews in particular were much less structured and exploratory in nature, as although I was familiar with the topic from the literature I had read, I did not know what themes and topics would become relevant in the context of Romanian anti-OC policing. The more I spoke to my research participants, the more these themes began to take shape and I was able to add some more pointed questions in my later interviews. While this may potentially pose questions related to the validity and reliability of the results, it was not my intention to design a study which focused on high external validity, considering the exploratory nature of the project. I aimed to protect the internal validity as much as possible by posing open-ended, neutral questions where relevant, and using a lot of probing non-verbal cues,

encouragement and affirmation cues, as well as silent probes (Gorden, 1969), where I made it clear that I was listening carefully and wanted the interviewee to carry on explaining their ideas (Keats, 1999). This had the added bonus of preventing the interviews from falling into a repetitive question-and-answer marathon, which as (Mishler, 1986: viii) argued, it can lead to a 'suppression of discourse […] accompanied by an equally pervasive disregard of respondents' social and personal contexts of meaning'.

Furthermore, while my sample ended up consisting of 28 participants, it is worth mentioning that the field of policing and prosecuting OC in Romania is not very extensive, meaning that the pool of potential participants was rather small to begin with. As Richards (1996: 200) argues, it is quite normal for elite interview samples to be on the small side. Moreover, in Romania and elsewhere, my target groups are very busy, with little availability or tolerance for outsider interference; in other words, 'elites are less accessible and are more conscious of their own importance; so problems of access are particularly important' (ibid.). Despite this, I was able to organise 30[7] interviews (in addition to a few more informal discussions) which averaged 1h40min in length, with a total of over 45 hours of interviewing.

While my objectives to gather the views and ideas of CJS actors about OC and understand how they fit (or not) with the global (western-inspired) construction of OC were ultimately achieved, the next sections show some of the difficulties I had to

[7] The two interviews with participants I had already interviewed were due to running out of time on one occasion, and me developing a better understanding of some issues and wanting to ask for further clarifications based on this in the.

navigate in the data-collection process. All in all, despite not being able to conduct my research fieldwork as I initially intended, my aim had always been to speak to the CJS practitioners involved with the phenomenon of OC in some capacity. After all, as Richards (1996) suggests, (elite) interviewing is particularly effective when researching individuals who take part in shaping a certain aspect of society and attempting to understand their subjective interpretation of a phenomenon or situation. The following sections discuss in greater detail some of the challenges I encountered during the fieldwork and how these have affected the results of this research project.

Access, sampling, and challenges

Considering that the project was an exploratory study, my focus was less on recruiting a large number of participants, and more on prioritising those participants who were the most likely to be able to answer my questions effectively and accurately. Additionally, as Kvale (2007) explains, fewer more in-depth interviews and a more focused qualitative data analysis process can result in more valuable understandings than surface-level analysis of a larger number of interviews. Given the nature of my research and the fact that my intention was to analyse the perspectives of law-enforcement officers and prosecutors involved in combating OC, I used a mix of non-probability sampling strategies (Bryman, 2001; Ritchie and Lewis, 2003) in order to recruit my research participants. Due to the closed-off nature of my target population, my first step was convenience sampling, accessing those contacts which were the easiest to reach and get approval from. This was followed by snowball sampling, utilising the personal and professional networks of those first contacts in order to reach more potential participants and gain their trust. Finally, in

the later stages of data collection I utilised some purposive/selective sampling in order to reach participants with expertise in areas I thought I needed more data on.

To put this into more concrete terms, as part of my funding application for the PhD in 2016/2017, I started contacting some key individuals who I thought would be able to grant me access to the field and participants I wished to research. Some of these contacts were individuals I had interviewed previously for my undergraduate dissertation, so I already had some rapport with them, and they were happy to support me again. Most of them, as well as the new contacts I approached for the PhD, I was introduced to by my father (herein Ioan) and Laurențiu[8], a male family friend who works in law-enforcement. They agreed to help even before I had a chance to brief them about my proposed research, out of trust and respect for my father and our friend and, to some extent, myself as a PhD student researching organised crime at an English university (as UK universities are considered very prestigious in Romania).

Ioan set up preliminary meetings with them, and watching them network immediately brought to mind Ledeneva's (1998) ‘economies of favours’, the phenomenon which emerged in response to the soviet socialist political economies in Eastern Europe, and which, contrary to most expectations, did not collapse with the totalitarian regimes in the region (Makovicky and Henig, 2017). Importantly, the ‘favours of access’ described by Ledeneva (1998: 35) apply not only to obtaining scarce economic goods, but also to social capital, by way of making one’s professional and

[8] All research participants have been anonymised and assigned a pseudonym.

informal networks available to others (Makovicky and Henig, 2018). In a sense, the post-socialist context (as well as my father's lifelong efforts to cultivate friendships and build a network of connections in a variety of sectors) allowed me access to a range of high-level law-enforcement and CJ professionals in Romania, something which may have taken years to accomplish in the UK, if it even is possible at all.

In order to gain access to the otherwise opaque and closed off policing system, I had to gain the trust of several gatekeepers, and to do that I needed someone they already trusted (Ioan) to vouch for me. As the classic Anglo-Saxon police studies have shown, law-enforcement on the whole tends to have an organisational subculture characterised, among other things, by suspiciousness/distrust, cynicism and a resistance towards external rules and demands for accountability (Loftus, 2009; Reiner, 1985; Skolnick, 1966; Waddington, 1999). In the post-communist context, it could be argued that the particular policing culture engenders even more distrust and contempt for outsiders trying to prod and examine their work. This meant that the initial interactions would have to go smoothly for me to have a chance of carrying out my research and not being shut out, in addition to having someone they trusted vouching for me. In the preliminary meetings, Ioan and his contacts talked about their families, mutual acquaintances, work and politics while I listened intently and contributed some short comments about the politics and weather in the UK.

The meetings were for and about my research, but etiquette dictated that all parties treat them as a social call first and that the request or favour is brought up only after a lengthy back-and-forth to catch up with each other since the previous meeting.

These first meetings served several purposes: first, I was introduced to some well-connected contacts who I was then able to interview; second, it meant that they could then vouch for me to other individuals I wanted to approach in order to gain their trust; third, they helped establish my 'role' or stance in these interactions as somewhere between deliberate naïveté (Kvale, 1996) and knowledgeable research student. Lastly, they enabled me to observe the language, communication style and balance between reverence and informality used in such meetings, which I needed to be able to replicate in my own meetings with participants later on. As explained by Makovicky and Henig (2017), operating within the economy of favours:

> [...] requires a researcher to observe and discuss potentially sensitive subjects and situations in an oblique way, and to be attuned to a wider semiotics of 'open secrets' and 'knowing smiles' through which favours are enacted and communicated. This 'language of favours' is locally specific, and partaking in it requires a certain degree of social competence on the part of the [researcher[9]] (as well as his or her interlocutors). (Makovicky and Henig, 2017: 13)

I obtained preliminary written consent, endorsement letters and a promise of access to their teams and contacts from a Chief Commissioner of the Border Police in Tistown, the Head of the Anti-OC Brigade in Samsburg County, a Police Commissioner Specialist Crime Investigation Officer for Samsburg County and several academics and CJ practitioners. However, through a series of political changes and pension reform which took place in Romania in 2017 and 2018, many of the high-ranking law-enforcement officers, including most of my contacts and gatekeepers, went into early retirement (DIGI24, 2017). In their place came a newer

[9] The original quote refers to ethnographers but applies very well in this case, despite the research itself not being ethnographical.

generation of officers, many of whom had taken an academic route to climb the organisational ladder faster; some of them were shuffled around from other police forces or branches to lead teams they had not met before.

In essence, the context within which I ended up conducting my research was somewhat unstable in terms of national as well as organisational politics, which posed significant challenges to my research (although I was able to make the most of the situation and the results might even be more interesting as a consequence). Many of my contacts and initial gatekeepers retired between endorsing my research plan and the start of my fieldwork and, due to organisational restructuring, they were no longer able to help me gain access to some of my intended research sites. Even when they were willing and able to connect me to the new leadership, the latter were not very receptive to the idea of the old boss sending someone in to ask them questions about their work.

This was quite unexpected and at least partly due to announced legislative changes regarding the pension scheme for law-enforcement, intelligence, and military personnel. While many of these individuals retained their reputation and clout to some extent, their support no longer meant that I had secured access to the field. Moreover, as previously mentioned, in some instances, the more seasoned bosses were replaced by younger counterparts who, perhaps comparatively lacking in experience and confidence, and still getting to grips with their new positions, did not feel comfortable with an outsider asking them and their teams various questions about their work. In fact, Vlad, the head of the anti-OC brigade in Samsburg, curtly

denied permission for me to speak to his agents, saying that they are not allowed to divulge personal information or state secrets – despite my best efforts to explain that my research is not concerned with these. Although I was surprised by this development, it appears somewhat common in social science research, particularly with regards to sensitive or elite populations, that gatekeepers unexpectantly block research for a variety of reasons (Ahern, 2014). When it comes to police research specifically, matters become even more complex, as evidenced by Reiner and Newburn:

> The police studied will inevitably be anxious about how they are going to be represented to other audiences, such as the managers or agencies to whom they are accountable. The resulting problems of access and trust are shared with much other social research that has the potential to uncover dangerous knowledge, but the extent of the difficulty is particularly severe in studying policing because of the highly charged nature of its secrets. (Reiner and Newburn, 2008: 351)

Considering that Samsburg was supposed to be my main site for fieldwork, Vlad's refusal to grant me permission to carry out my research meant I had to adapt and find other anti-OC officers who were willing to speak to me. What resulted was essentially a pan-Romanian investigation of OC and anti-OC policing, since instead of focusing my research on one geographical region I ended up having to travel across the country, visiting different regional brigades and covering all but one geographical area. Some of the gatekeepers who were retired but still well-connected reached out to the heads of anti-OC brigades in other counties, some of whom agreed to speak to me and let me interview their teams. Thus, Vlad's refusal to grant me access to his brigade led to my fieldwork becoming multi-sited, as I visited 3 different border forces and spoke to officers from 6 large cities in Romania. As the

analysis will show, this actually provided a new dimension for my research, showing how the various regions differ in conceptualisations and in policing priorities.

Interestingly, my assumption going into fieldwork was that some of the older agents, having perhaps inherited some of the suspiciousness of the secret police during communism, would perhaps be less interested or supportive of my research. However, most of them took me under their wing and shared anecdotes and stories about their most interesting cases. Understanding what I needed from them, they did their best to help by answering my questions, recommending other participants and vouching for me (in a few cases they offered to talk to their superiors in order to get their support for my research). Some of the younger participants could easily relate to the struggle of a student trying to conduct their research with law-enforcement, as they had been in similar positions not long ago.

I found it surprising when, on two occasions, younger leading agents (one of them being Vlad, the head of the Samsburg brigade) told me they had also attempted to pursue a PhD, but ended up withdrawing from the programme. Although they gave me advice on what I should research for my PhD project (as opposed to what I *was* researching), they both ended up denying me access to their teams, but not before lengthy debates about everything from academia and OC to whether women should be allowed to be field police officers or the morality of LGBT marriages. Both of these two extremes could be viewed as different sides of the same hyper-masculine police culture, which in the case of my participants manifested itself as either paternalistic tendencies (of protecting, helping, speaking to people on my behalf) or as machismo,

grand-standing and one-upmanship. It is likely that both age and experience had an effect on which type of masculinity each participant embodied. Another contributing factor was which gatekeeper established first contact. When introduced to them by my father, the participants tended to adopt the more paternalistic position, whereas when I went through Laurențiu some of the younger lead agents were overbearing and challenging.

In hindsight, I think I should have been more careful in approaching these individuals, considering the broader context of them having recently started in their leadership positions. However, I failed to give enough consideration ‘to the interpersonal and intersubjective relationships established between gatekeepers, researchers and researched and the factors that mediate, shape and give meaning to these relationships’ (Crowhurst and kennedy-macfoy 2013: 458). Laurențiu’s position at the time as a police anti-corruption officer may have had more of an impact on their relationship than I had anticipated, resulting in the officers not trusting me in return. In essence, as Vlad likely perceived Laurențiu’s as an untrustworthy, this perception extended to myself as a researcher.

An issue which, on reflection, likely led to this situation, was that I had wrongly assumed that having Laurențiu vouch for me would result in implicit trust from those I wished to interview, and that they would not feel the need to gatekeep themselves. However, due to the power dynamics between Laurențiu and Vlad, this was not the case, and the latter became a formal gatekeeper whose trust I failed to obtain. As Burgess explains:

> […] we cannot talk of a gatekeeper and a point of access. Instead, we need to think in terms of gatekeepers who can grant permission for the researcher to study different facets of the organisation. There are, therefore, multiple points of entry that require a continuous process of negotiation and renegotiation throughout the research. Research is not merely granted or withheld at any particular point in time but is ongoing with the research (1984: 49)

This mistake meant that I was denied access to what I had hoped would be my main fieldwork site, the anti-OC brigade in Samsburg. However, I was able to adapt to this and compensate by expanding my search for participants to other areas of Romania. After carrying out some initial interviews, my respondents who were quite well-established and well-trusted in the field of OC policing, were then able to connect me with brigades from across the country. This came with certain advantages, as the findings will show, since I was able to interview law-enforcement officers who deal with quite different manifestations of OC.

With regards to interviewing the prosecutors, the main challenge was time. I was a distraction, and sometimes not a welcome one. For example, one friendly, well-connected prosecutor was about to travel to attend a meeting abroad but wanted to help me however he could. He asked me to meet him at his office before 8am (which is the start of the workday in Romania) to see what he could do. I went to his office, and it turned out that there were some urgent cases which needed his input, so I sat in a corner in his office for a few hours while he met with several members of his team and decided how they should proceed in each case. When he got the chance, he asked one of his secretaries to provide me with a copy of the case files from a recent case they had finalised. He asked me to join him for lunch so I could interview

him before he left, so I did, except he was on the phone discussing cases for the majority of the time, and then his son joined us as they needed to arrange something. In the end, he put me in touch with another prosecutor whom I did manage to interview after a few attempts at scheduling a date and time.

Furthermore, I found it somewhat difficult to strike the right balance between naive student and knowledgeable graduate researcher when constructing and embodying my identity/role within the research relationship. On the one hand, I wanted my participants to feel like they were the experts in the room and I was a student who wanted to learn from their experiences and perspectives. On the other hand, I did not want to seem like I had not prepared at all prior to talking to them. In one case, a prosecutor asked me whether I had even read the legislation on OC (as a result of me asking him how he would personally define the concept), insinuating that I was wasting his time by asking him for the definition instead of finding it online.

As Richards puts it, ‘there is a tendency for elites not to ‘suffer fools gladly’. Their time is often limited, and if you fail to have a very good command of your material, then this can have a wholly detrimental effect on the interview’ (1996: 201). Several law-enforcement officers also made comments about ‘finding this information online’, disregarding my comments about wanting to understand their own interpretation about the issues we were discussing. On another occasion, a different prosecutor became irritated when I mentioned that the article he was referring to had been repealed from the legislation on OC, accusing me of setting him up to make it seem like he did not know the legislation.

The concept of positionality, defined as ‘the ways in which others position the individual identity and affiliations [the researcher] may have’ (Sanghera and Thapar-Björkert (2008, in kennedy-macfoy, 2013: 495) is useful in drawing out and analysing the power dynamics I encountered in the field. It became clear from all my interactions with police officers and prosecutors that *they* were *helping me* with the research, which at times felt akin to how they might take a few minutes to answer a survey for their friend’s child’s school project. My position as a young woman, and a student on top of that (albeit graduate, but a student nonetheless) placed me firmly in a position of inferiority. In the context of elite interviews this is often the case, simply because the gatekeepers and research participants are a hard-to-reach group of experts. However, I would argue that my gender, age and the fact I was still in education exacerbated this dynamic, since ‘the power relations between gatekeepers, researchers and the researched run the risk of reproducing the unequal relations of power and domination that abound in the wider social world’ (Crowhurst and kennedy-macfoy 2013: 458).

The advice to change my PhD research design to comply with what certain police officers thought was a more worthy scholarly endeavour is very similar to the practice which is popularly referred to as ‘mansplaining’. The practice, which is steeped in sexism and predicated on some men’s belief that women cannot be more knowledgeable than them on any given topic, is described by Kidd as a ‘systematic sociocultural silencer’ (2017: 2) and involves interrupting, speaking over and contradicting the arguments and expertise put forward by women. Similarly, in the context of the existence of female police officers, as much as I attempted to argue that diversity in policing with regards to gender, ethnicity, socio-economic

background and other characteristics improve policing overall, all Vlad wanted to discuss (and interrupted me incessantly to do so) was a recent example of two women officers being surrounded by a mob at a rally, and how they would have been badly injured had it not been for the male officers who came to their rescue. As he was essentially gatekeeping my intended research field and participants in Samsburg, I did not feel like I could get into a debate with him and essentially disengaged from the conversation until he was ready to move on.

One other type of situation I struggled with was having to react to openly racist terms and discourse being used in the interviews, especially with regards to Romani people. Having lived in the UK since 2013, where this is very much against standard practice, it was somewhat of a reverse culture shock to hear high-ranking law-enforcement professionals use slurs and disparaging language and blaming Romani individuals for, according to them, the vast majority of criminality in Romania. They seemed to have no awareness of the role that implicit bias and institutional racism play in shaping the picture of criminal offending in any given space. I could do little else than question the sources of their information and ask them about their reasons for thinking that. Again, being in a position of relative powerlessness compared to the officers, I did not feel comfortable with calling out such behaviours. On reflection, I wish I had followed up that discussion further, though it was beyond the scope of this research project. It has, however, sparked my interest in researching this topic further in the future.

Consent and ethical considerations

As part of completing a very thorough ethical approval process in line with university policy (which I completed in November 2018), I put together a participant information sheet (see Appendix I) and an informed consent form (Appendix II) which I discussed with each participant at the beginning of the interview. Informed consent, confidentiality and anonymisation were discussed as part of this conversation, and the participant's consent was required to start the audio recording. I tried to obtain their written consent at the beginning of the interview, although this proved challenging at times. On several occasions, my interviewees seemed eager to get started and did not see the point of my rehearsed preamble, trying to get me to skip it to get to the interesting part.

In some cases, despite my previous explanations as to why this was necessary, their enthusiasm dwindled when I handed them the consent form and asked them to read over it and sign it if they agreed. Many of them seemed hesitant to sign anything at that stage. Although I was introduced to them by people they knew well and trusted, to them signing something without knowing all the details (i.e. what questions I was going to ask them, how they were going to answer them etc.) was akin to signing a contract for a bank loan without reading all the terms and conditions. It made them question whether they should participate at all so, worried about it potentially affecting our rapport, I proposed as an alternative that they give me their verbal consent for participating and sign the form at the end if they were happy with how the interview went, which made them more comfortable. It is worth mentioning that prior to meeting any of my participants I briefed them either via phone or email about the

topic of the research and how the information would be used, so consent could also be inferred from their agreement to meet me in the first place.

One of the potential ethical issues I had to contend with emerged from the organisational hierarchy of the institutions where I carried out my research. As I first sought out consent from the high-ranking officers to interview members of their brigades, the latter may have felt like they had no choice but to participate in my research because their boss had told them to. Even though I was arguably interviewing ‘up’ and my participants were not a vulnerable category by any means, the fact that my access was granted by their superiors led to a somewhat confusing balance of power. I dealt with this by briefing and obtaining individual consent from each officer, ensuring that they felt under no coercion to participate and reiterating that there would be no consequences if they chose to withdraw at any point. On one occasion I ended the interview early and discarded the data when I got the impression that the (young) officer was only participating because his superior had asked him to. Generally, though, I found that the officers thought my research was interesting and welcomed the break from their daily schedule to sit down and tell me about their experiences.

Furthermore, as outlined above, law-enforcement practitioners tend to be suspicious of outsiders, even if someone they trust vouches for them. One significant difficulty resulting from some of my participants’ lack of trust was the fact that they did not consent to an audio recording of the interview. In fact, in some institutions I was asked to leave all recording equipment and electronics in my bag with the security

team while I was there. Considering that I generally interviewed two or three individuals a day, sometimes more, in each organisation I visited, it meant that I had to take comprehensive notes for hours at a time, while also keeping up with the conversation, offering affirmative cues and preparing my next question. I found these situations extremely draining, and although I did my best to keep intelligible, in-depth notes, and type them up as soon as I could, these were not as accurate as the transcripts from recorded interviews. Out of all the interviews I conducted, I was able to record just over half of them.

Similar to the issue of obtaining prior consent, some participants were perhaps unsure about how the interview was going to unfold, and did not want to risk saying things on record which they would later regret (despite my assurances that they would be able to retract any statements or withdraw from the project at any point). Part of me wondered whether the fact that they worked with special surveillance equipment and used it to apprehend offenders made them associate recording equipment with wrongdoing and punishment. In any case, this issue affected not only the process of data-collection, but also the transcription and analysis. Translating my made-up shorthand and transcribing it, especially for those interviews which were last in a series of several within one institution, was considerably more difficult and time-consuming than transcribing the interviews.

In the end, at least to my knowledge, none of my interviewees suffered any negative consequences as a result of participating in my research. In many cases, I got the impression that they were self-censoring, making sure they did not tell me anything

that was confidential or which they thought could harm their role and reputation. However, this was not always the case; as the next section will show, some individuals went out of their way to bring up controversial topics and share their conservative viewpoints as a way of challenging me and my research.

Data analysis

As my research design was based on a constructivist, inductive approach, the data analysis process was iterative, and it started quite early in the process of data collection. As I described previously, I initially prepared a set of general topics to address over the course of each interview, such as the definition of OC, the particularities of the OC phenomenon in Romania or the challenges of policing OC during the transition years. These topics were refined after the first set of interviews, as certain themes and sensitising concepts emerged as being of greater importance than I had expected. I began to understand what my participants considered to be relevant and identified gaps in my own understanding which I then addressed by including them on my list of topics (for example, the tension between the legal definition and the procedural definition of OC).

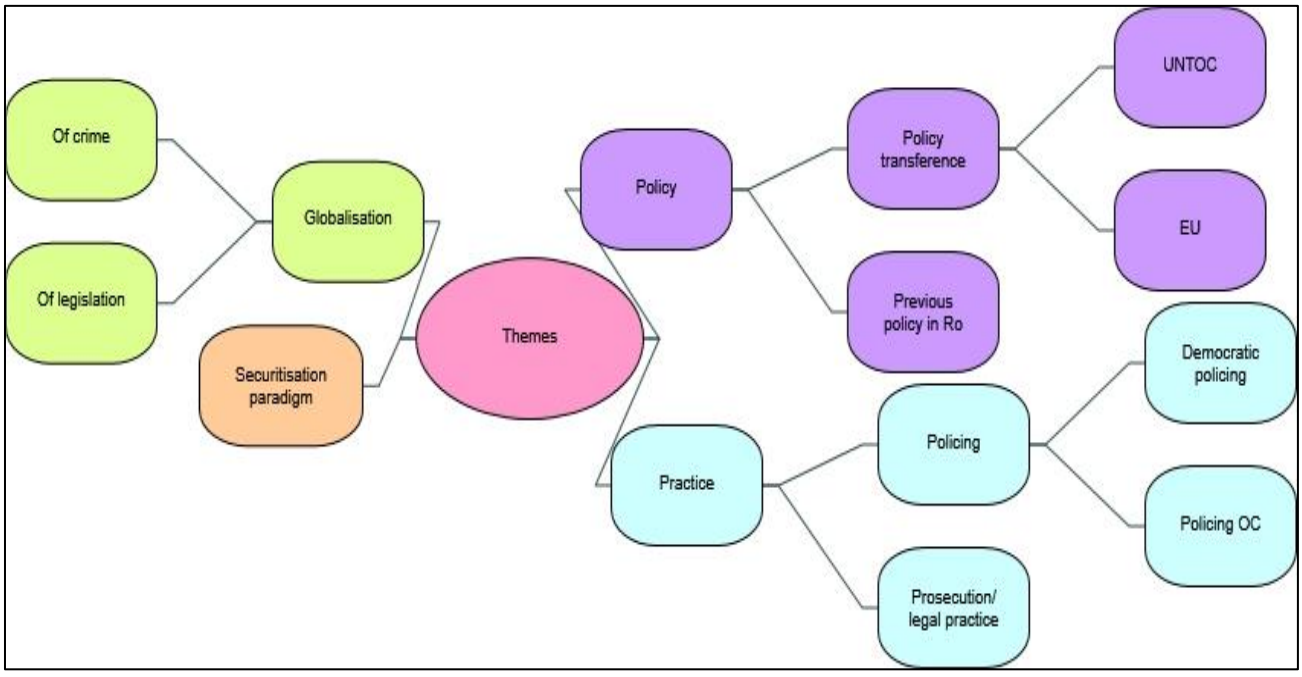
After the first few interviews, when I noticed some of my participants' frustration at the lack of a questionnaire, I formulated a set of broad questions which relied quite heavily on the findings from the first interviews (Appendix III). As such, the analysis was an iterative process, starting almost at the same time as my fieldwork, and informing the data-collection process at every step. This enabled me to adapt to some of the difficulties I encountered, and to change the interview topics to achieve a

much deeper understanding of the issues relevant to my project than if I were to conduct all the analysis after leaving the field. This was particularly evident in the cases where I reinterviewed some individuals at the end as I identified gaps in my understanding or wanted to clarify their position on a certain question.

I used a mix of narrative and thematic analysis in order to derive different levels of meaning from the data. The thematic analysis involved going through over 200 pages of interview transcripts and notes, highlighting recurrent ideas and arguments which were relevant to my research questions. In a coding process borrowed from grounded theory (Charmaz, 2011), the relevant points were organised into codes or labels and sorted, synthesised, and summarised. Although I started the coding process using NVivo (a computer-assisted qualitative data analysis programme) which was useful in identifying some of the main codes and themes, after a few transcripts I began coding manually, as it made me feel closer to the data and it did not remove the codes out of their context. It also seemed faster and more intuitive, although it is possible that this was due to the first stage of data analysis always being clumsier and more time-consuming. There were two layers of coding, the first one being based on a close reading of the transcripts and emerging from my participants' responses with very little interpretation on my part. For example, some of the codes which emerged at this stage included drug trafficking, corruption, law-enforcement training, the Roma minority, international cooperation, Italian mafias and the transition period.

The codes were then grouped into more general categories which also arose from the data and analysed thematically. Based on my literature review and list of interview topics, I already had a sense of some of the broad categories which I should pay particular attention to, but I wanted the data analysis to be inductive/data-driven so I tried not to let my prior knowledge affect my coding too much. I then linked categories or themes together according to the patterns which emerged from the data, and connected them to the existing literature summarised in the previous chapter. This enabled me to generate a conceptual framework grounded in my data, as well as connect it to previous research conducted on the same topics (see Figure 1 below for some examples).

Figure 1



Some of the main themes arising from data analysis

The second layer of coding took place after this initial analysis and involved a more interpretive approach, using more abstract concepts (codes) derived from literature to deconstruct the respondents' narratives. Training and international cooperation

became related under the code of policy transfer, while codes referring to the Roma minority, Italian mafias, Ukrainians and Albanian drug gangs were linked to the code for alien conspiracy theory. This narrative analysis conducted in parallel with the more basic thematic analysis puts the patterns and themes into context by considering the individual perceptions of my participants about the phenomenon of OC and their role in combating it; in other words, it clarifies the context within which the patterns and themes should be understood.

In summary, the analysis process was iterative and continuous throughout the data-collection and analysis. The data derived from documents and legislation informed the interview questions and, in exchange, the interview findings gave me a much better understanding of the legal framework on OC and its ramifications.

Conclusions

To summarise, this chapter has outlined the research design utilised in the present thesis, and the epistemological justifications which underpin it. This project focused on three principal research objectives: RO1 – to analyse the socio-legal construction of OC in Romania; RO2 – to observe how anti-OC practices are actually implemented by various agencies on a daily basis, and RO3 – to examine the perceptions of CJ actors regarding OC, and consider how these relate to official legislation and actual OC policing in Romania. The initial proposal outlined three methodological strategies for addressing each objective: document analysis, ethnography and elite/qualitative interviewing. However, as a result of the difficulties arising from researching law-enforcement officers and prosecutors, particularly in a post-soviet context, the ethnographic element did not come to fruition.

In addition, gaining access to some of the sites proved more difficult than I had initially anticipated. As a result, I redirected my efforts to other branches of the anti-OC law-enforcement agency, which enabled me to discover some interesting regional differences in terms of combatting OC which will be discussed in later chapters. The data collected was rich and extensive, and the combined analysis of legislation, case files and interview data resulted enabled me to understand and lay out the interplay between policy transfer, national legislation and law-enforcement practices and perspectives with regards to OC. The next chapters will look at the emergence and evolution of the legal conceptualisation of OC in Romania, the individual perspectives of anti-OC police officers and prosecutors, and their impact on the success (or lack thereof) in tackling illegal logging, a non-stereotypical OC phenomenon.

Chapter 4. Legislation

Introduction

One of the research objectives of this study was to analyse the legal conceptualisation of OC in Romania – in other words, to understand how the legislation on OC has emerged, and then constructed and shaped the phenomenon of OC. The aim of this is to try to understand the extent to which American and European Union policies against OC have been transferred to Romania and influenced its activity against OC. The legislative changes paint an interesting picture of the evolution of the concept of OC since its initial adoption up until the present day. This chapter charts this evolution and looks at how the implementation of UNTOC and the later amendments to align with the EU Framework decision have impacted Romania's CJS, and the issues which resulted from the adoption of a foreign concept into national legislation. [10]

Implementation of UNTOC

Perhaps the most important development in terms of the Romanian anti-OC framework was the adoption of the UN Convention against Transnational Organised Crime (UNTOC) in 2000, signed by all but 13 members of the UN (UNODC, 2004). UNTOC represents the basis for the Romanian legislation against OC. The Romanian definition of OC used to be a translation of the UN definition, although it has since been widened to include more offences. While Romania had no legislation

[10] Sections from this chapter research were published as part of a chapter in the book *Criminal defiance in Europe and beyond. From organised crime to crime-terror nexus* edited by van Duyne et al. (2020). For more details see Neag (2020)

on OC until relatively recently, there were some 19th century provisions for combatting criminal associations. The 1864 Penal Code referred to the offence of 'association with the aim of committing crimes' – herein criminal association – including the offences of joining, initiating or aiding such an association (even when no other crime has been committed). Although the notion of criminal association as per Art. 323 from Law 140/1996[11] did not expressly refer to organised crime, it could have been a good starting point for such a piece of legislation. However, following the 2000 UN General Assembly in which UNTOC was adopted (UNODC, 2004b), Romanian legislators started drafting a distinct law to help implement the treaty and its supplementary protocols. What resulted was a legal system which incriminated crimes committed within a group in two different ways, and the practical differences between them were not always obvious.

Thus, the first piece of legislation on OC in Romania was Law 39/2003 on Preventing and Combatting Organised Crime[12] which, according to its first article, introduced specific measures against OC in order to prevent and combat it not only at the national level, but also internationally, and defined the 'organised criminal group' as:

> a structured group, formed of three or more persons that exists for a period of time and acts in a coordinated manner to the purpose of committing one or more grave offenses, in order to obtain directly or indirectly a financial benefit or another material benefit. (Art. 2, Law 39/2003)

The law focuses on the structure and membership elements of organised crime, i.e. the group. Therefore, at least at first glance, Romanian penal law adopted the

[11] Law 15/1968 The Penal Code, 140/1996 The Republished Penal Code, published in the Official Gazette [Monitorul Oficial] no. 65/16.04.1997
[12] Law 39/2003 on Preventing and Combatting Organised Crime, published in the Official Gazette [Monitorul Oficial] no. 50/29.01.2003

structure paradigm of OC, which focuses on the groups committing OC, rather than the illicit activities generally associated with the phenomenon. The following sections discuss some of the issues arising from the initial Romanian legal definition of OC.

Definitional problems: Structure

The notion of 'structured group' was perhaps the most problematic, due to its vagueness and it not being clarified anywhere in the law, despite being one of the main elements investigators would have to prove in order for a case to be prosecuted as OC. Inverting the distinction made for 'occasional groups', it could be concluded that an OCG had to have a 'definite structure' (which does little to clarify the term) and pre-established roles for its members. In other words, those participating in an OCG had to fulfil specialised roles within the organisation as established ahead of time. While this would have helped shed light on what was meant by structure, it possibly came from a mistranslation of UNTOC, which states that a structured group '*does not* need to have formally defined roles for its members, continuity of its membership or a *developed structure'* (UNODC, 2004: 5).

Moreover, the UNTOC Legislative Guide states that the term 'structured' is to be used broadly and that 'a 'structured group' is not necessarily a formal type of organization with a structure, continuous membership and defined roles and functions for its members' (UNODC, 2004a). Considering the above, it is understandable that there was some confusion when implementing UNTOC at the national level - as Van Duyne and Nelemans (2011) highlight, the Convention essentially defines a structured group as one which may lack a developed structure, contradicting the lexical meaning of the term. In any case, as will become evident over the course of the thesis, the idea of structure represents a central feature in the

conceptualisation of OC. In theory, the UNTOC-inspired Romanian legal definition of OC conforms to the structure paradigm of OC (as explained in the literature chapter), however other pieces of legislation discussed below, as well as the social construction of OC by CJ actors do not necessarily align with it.

Definitional problems: Seriousness

Regarding the 'seriousness' criterion, the UNTOC Legislative Guide states that, while members do not have to introduce a definition for 'serious crime' in national legislation, the term shall refer to any offence for which the maximum prison sentence is four or more years. It also adds that countries may want to lower their maximum sentences in order to be able to include more offences under the Convention, with the aim of facilitating international cooperation. This is a good example of how such international agreements can affect national criminal justice policies even with regards to sentencing rules, which are traditionally based on national contexts. Simply put, the Convention pushed signatory states towards adopting more punitive measures for countering OC.

It is not clear why Romania disregarded this and adopted a threshold of five years or more minimum (rather than a four year or more maximum), although it could have been to differentiate between OCGs and the offence of criminal association, which had a minimum sentence of three years. In any case, a UNODC review of the implementation of UNTOC in Romania made the recommendation that the threshold for seriousness should be lowered from five to four years. This was despite the fact that 'this gap was vitiated by the broad list of offences which automatically fall under the definition' (UNODC, 2012:21). By implementing the vague 'catch-all threshold

penalty approach of ‘serious crime’’ (UNODC, 2012:7), crimes can be included in the OC category in the future by simply increasing the punishment terms. The concept of seriousness will be discussed more extensively later on, as it becomes central to the argument of this thesis through its connection to stereotypical constructions of OC as highly-organised, dangerous organisations who are usually involved in *serious* crimes like drug trafficking or trafficking in persons.

Definitional problems: Continuity

As far as the ‘period of time’ is concerned, the Legislative Guide suggests that countries needing to provide further clarification in their national legislations may replace it with ‘any period of time’, thus removing any reference to a group’s continuity over time. This, again, widens the scope of such definitions, which in turn serves to expand the use of special investigative techniques to cases which would not normally be considered OC. While the Romanian law adopted the ‘for a period of time’ notion, there are examples of how this could have been clarified in other pieces of legislation. For example, Romania’s Customs Code differentiates between regular contraband – where a single offence with damages under a certain monetary threshold is committed by an individual – and qualified contraband, where the offence takes place more than once, in which case the punishment is escalated from fine and confiscation to imprisonment and confiscation.

Following their analysis of the UN definition of OC, Van Duyne and Nelemans concluded that ‘the organised crime concept is an ill-defined construction without the capacity to delineate a set of potential observables’ (2011: 44). Considering the above, the wide UNTOC definition of OC enabled signatories to criminalise more

activities as OC, as well as share resources and information while investigating a multitude of offences which, prior to this, countries may have conceptualised differently. In the case of Romania, it posed some challenges due to its overlap with other legislation, and the lower threshold for criminalisation. However, UNTOC was not the only international document which influenced Romania's legislation on OC. As the next section will show, the EU also shaped the way in which OC is criminalised and policed in Romania.

European integration

In 2008, the European Commission adopted the Framework Decision on the fight against OC[13], aiming to 'improve the common capability of the Union and the Member States for the purpose, among others, of combating transnational organised crime', via the means of 'the approximation of legislation' (ibid: (1)). Using the term 'criminal association' rather than OCG, the definition in the framework encompasses the same basic elements of the UNTOC OCG definition, with the exception of the 'seriousness/graveness' criterion, replaced with offences punishable by a maximum prison sentence of at least four years. This is still rather broad, considering the proportion of crimes for which the maximum sentence is four or more years imprisonment. This required that Romania and other member states lower their threshold for seriousness – in Romania's case, from five to four or more years maximum imprisonment – meaning that even more offences would potentially be qualified as OC activities.

[13] Council Framework Decision 2008/841/Jha. 24 October 2008

In the introductory paragraph (4), the Decision also asserts 'Member States' freedom to classify other groups of persons as criminal organisations, for example, groups whose purpose is not financial or other material gain' (ibid.). This is in complete contradiction of UNTOC's Legislative Guide, which states that the OCG definition only applies to those organisations which seek financial or other material benefits, and specifically excludes terrorist and insurgent groups or others with 'purely political or social motives' (UNODC, 2004a 10), unless they commit offences subject to the Convention in order to gain financial or material benefits. Thus, the EU Decision further widens the definition of OC, potentially extending its applicability to groups which are criminalised in different ways.

Following the EU Framework Decision and after the adoption of the new Romanian Penal Code in 2009, Art. 367 from Law 286/2009 changed the definition of 'organized crime group' to mean 'a structured group, made up of three or more persons, which exists for a certain period of time and acts in a coordinated manner for the purpose of perpetrating one or more offenses'[14]. This amendment essentially removes the 'serious crimes' criteria from this definition, as well as the phrase which indicated the aim of the group's criminal activity as that of obtaining, 'directly or indirectly, a financial or other material benefit' (as per Law 39/2003), therefore widening the scope of the law to include more possible offences. For example, by removing the financial/material motivation criteria, this law could in theory apply to terrorist organisations (although the separate legislation on terrorism specifies that it only applies to those groups whose objectives are 'specific and of a political nature'[15]) or

[14] Law 286/2009 The New Penal Code, published in the Official Gazette no.510/24.06.2009
[15] Law 535/2004 on Preventing and Combatting Terrorism, published in the Official Gazette no. 161/08.12.2004.

other political or social organisations (such as the case of the fascist Golden Dawn party in Greece, whose leader and other members were arrested and charged with, among other things, forming a criminal organisation - Alderman, 2013).

The law on OC was amended further through Art. 126 from Law 187/2012[16] which redefined the term ‘serious crime’ to mean ‘any crime which is punishable by law through life imprisonment or through a prison sentence with a maximum of at least 4 years’ as well as a list of other crimes such as forced labour, divulging secret information, tampering with serial numbers and markings on weapons, drug trafficking, not respecting regulations to do with importing waste and others.

It should be pointed out that Art. 367 from Law 286/2009 removes the reference to ‘serious crimes’ from the definition of an OC group, but the Law 187/2012 amendment changes the definition of ‘serious crimes’ on Art.2.b) from Law 39/2003; it is unclear why this definition is needed since under the new legislation, an OC group does not necessarily have to commit a serious crime in order to be prosecuted under OC legislation. In any case, by removing the reference to ‘serious crimes’ and lowering the imprisonment threshold to 4 years in the definition of serious crimes at Art.2.b), the amendments increase the range of offences that the law on OC applies to.

The Romanian High Court of Cassation and Justice explains that the intention behind widening the OCG definition was to ‘eliminate the parallelism’ between Law 39/2003 on combatting OC and Art. 323 of the Old Penal Code, in that they both referred to a

[16] Law 187/2012 For the Implementation of the New Penal Code, published in the Official Gazette, no. 757/12.11.2012

constituted plurality (i.e., unlawful association, rather than occasional plurality, or conspiracy). This was also done in order to remove the overlap with other group offences, namely conspiracy and terrorism, by turning the OCG definition into an ‘incrimination framework’, with the possibility for terrorism to be incriminated distinctly due to its specificity. This explanation was provided by the High Court following a series of appeals by people who had been convicted under the criminal association legislation, who argued that the offence had now been decriminalised.

There were also appeals by individuals who had been prosecuted under the ‘occasional group’ article in the OCG Law, which was also removed when the definition was changed. Following some court decisions that those convicted under the ‘occasional group’ provision were no longer incriminated under the new legislation, the High Court reversed the practice and concluded that neither had been decriminalised, as both the criminal association and the occasional group were intended to be included in the new definition. This means that, in practice, individuals who were previously convicted for offences which did not amount to OC were now included in the newer, much wider definition of OC. Further study is needed to understand how this decision and broadened definition impact legal practice in Romania by leading to more convictions of less organised groups, or whether the stereotypical conceptualisation of OC as mafias is too prevalent to allow for this to happen.

At the same time, as part of the EU Pre-Accession Pact, Romania had to create dedicated specialised policing and prosecutorial structures to tackle the new phenomenon of OC. As a result, the Directorate for Investigating Organised Crime

and Terrorism (DIICOT) was created as a separate Prosecutor's Office attached to the High Court of Cassation and Justice. The DIICOT prosecutors were assigned to work with newly-established teams of investigators, called Anti-Organised Crime Brigades, or BCCOs for short.

The legal documents establishing the new prosecutorial agency outline its organisational functioning and lists the offences which OC prosecutors must investigate[17]. They include the usual suspects of drug trafficking, trafficking in persons, money laundering and terrorism (as DIICOT has jurisdiction for both OC and terrorism), as well as a mention that they have competence in any offence which falls under the area of application of Art. 367 – the one that criminalises OCGs. Therefore, it could be argued that Law 508/2004 introduces an alternative conceptualisation of OC, one which is not based on the structure paradigm of OC, but on the activity paradigm instead. As the following chapter shows, this has contributed to a mismatch between the legal conceptualisation of OC as per Art. 367 and the social conceptualisation of OC as expressed by my research participants.

The current state of affairs

The UNODC review confirms that Romania has successfully 'adopted the measures required in accordance with UNTOC' (UNODC, 2012:21), especially after rectifying the 'serious crime' definition. In practice, according to DIICOT activity reports, *recorded* OC seems to have ballooned in Romania. Comparing figures from the start

[17] Law 508/2004 Regarding the Creation, Organisation and Functioning of the Directorate for Investigating Organised Crime and Terrorism within the Public Ministry, published in the Official Gazette, no. 1089/23.11.2004

of DIICOT's activity in 2007 to those from 2018, the number of cases recorded went from 16.072 to 27.280, an increase of almost 70% in a little over a decade. The number of solved cases, conversely, increased by a mere 27%, from 7192 in 2.997 to 9.144 in 2018. Although police-recorded crime statistics should generally be taken with a grain of salt, these particular records show an interesting trend. While there was a steady increase in the number of recorded cases since 2007, this increase became more fast-paced as of 2015 (DIICOT, 2008, 2016, 2019). Further research is needed to investigate whether this increase is related to the legislation change or other factors.

Perhaps most importantly, Romania aligning its national legislation to European and international standards paved the way for law-enforcement and judiciary cross-border cooperation. In fact, a Council of Europe evaluation report related to EUROJUST and the European Justice Network praises Romania for 'generally deal[ing] with requests from other Member States appropriately and promptly' (Council of the European Union, 2014: 5). The report adds that the anti-OC and anti-corruption agencies were the source of most interactions with Europol. One of its conclusions is that:

> The Romanian system of international cooperation in criminal matters seems to function well and to rely mostly on informal contacts between practitioners and experienced specialists devoted to providing legal information and practical solutions (Council of the European Union, 2014:5)

Discussion and conclusions

To conclude, it would seem that much of the international anti-OC legal and policing framework can be linked to early developments in combatting OC in the US. As the

crystallisation of American policies on OC converged with the globalisation of policing and provided a good justification for increased police powers and spending, the American model was imported and adapted both nationally and internationally across the world. With the enlargement of the EU, and the adoption of anti-OC legislation as a requisite for joining the Union, CEE countries were faced with the dilemma of having to compromise between democratic policing and creating a strong, centrally controlled anti-OC policing apparatus.

The Romanian legal construction of OC went through several stages, adapting to the changes brought about by various international conventions and models. At each step, the legal definition was widened to include more offence types. In the space of 25 years Romania went from having no OC legislation to adopting a very far-reaching legal definition. Rather than working with and improving the law on criminal association which Romania used since the 1860s, this was replaced by a new criminal category based on UN and EU conventions and directives. This process was influenced by US involvement, concepts and rhetoric, leading to a more repressive criminal law regime, including extended policing powers and higher punishments, all in the interest of legislative alignment and international cooperation.

The analysis of OC legislation serves as an interesting case study of policy transference, as it maps the various developments that the concept itself, as well as the legislation and practices, went through. The analysis shows a clear eastward trend, whereby stronger Western nations had more of a say regarding the internationally-dominant model of OC policies and crime control, and CEE transitional regimes adopted and adapted to this model.

Future research could shed more light into the extent to which policy transfer also affected law-enforcement practices, as it is not clear what happens when there is a mismatch between legislation and the reality of OC on the ground. While it appears that Romania has adopted the ‘right’ legislation and policies by aligning itself with UN and EU guidelines, this does not necessarily mean that policing practices have followed suit and are now uniformly applied across the EU. Indeed, perhaps the most obvious change brought about by the legislation seems to be related to facilitating international police and judicial cooperation.

Chapter 5. Policing OC in Romania: perceptions and practices

Background: Anti-Organised Crime Law-Enforcement in Romania

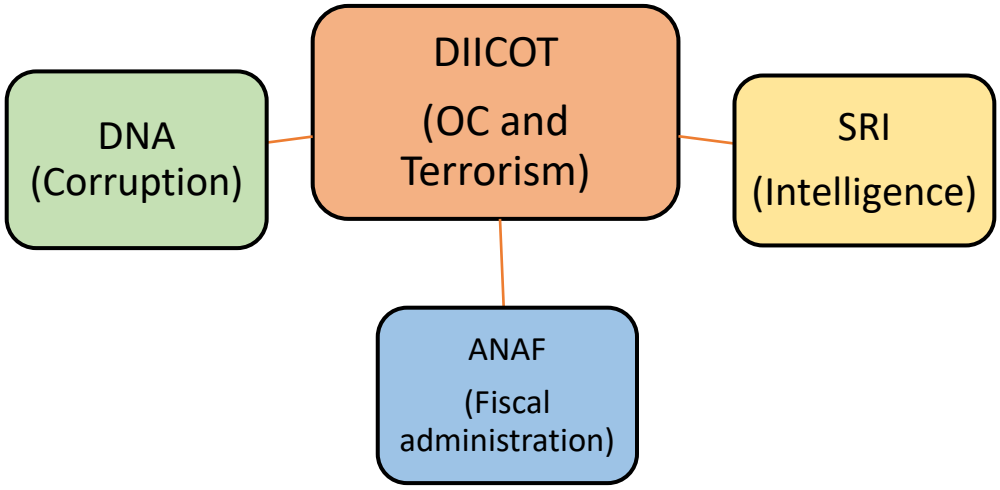
As the previous chapter shows, the legal conceptualisation of organised crime (OC) in Romania has been heavily influenced by the American and West European discourse about the phenomenon. In the present chapter I will analyse the perspectives of my interview participants about OC, in order to demonstrate that the Western understandings of OC have not only influenced legal policy, but also the social construction, and the individual perceptions of CJ practitioners about the phenomenon. I will also highlight the tension created by some inconsistencies between the legal construction detailed previously and the law-enforcement experience and perceptions.

Before delving into the interview analysis, a brief explanation of the landscape of agencies and institutions involved in the prevention and combatting of OC in Romania is in order. The Directorate for Investigating Organised Crime and Terrorism (DIICOT) is the Prosecutor's Office Attached to the High Court of Cassation and Justice. It is centrally-run from Bucharest and comprises 15 regional 'services' (branches), each attached to but independent from the local or regional Court of Appeal. This agency was created as per EU recommendations for Romania's accession to the EU (see Gorkič, 2012). The DIICOT prosecutors specialise in OC and terrorism cases and closely cooperate with various law-enforcement branches, depending on the context. Usually, they work with teams of officers (Anti-Organised Crime Brigades- BCCOs) from the Romanian police who are

individually selected to join a certain brigade. Additionally, in border locations, they also work with specialised bureaus or compartments from the border police service (such as the Bureau for Preventing and Combatting Illegal Migration and Cross-Border Criminality- BPCMIIT). These specialised teams are made up of law-enforcement agents with special judiciary police status (conferred by the DIICOT Chief Prosecutor or Romania's General Prosecutor), which allows them to conduct criminal investigations beyond the scope of a regular police officer. These investigations are also prosecutor-led, as opposed to police-led as is the case in most other offences.

If cases of OC are connected to corruption offences – for example, where a border police officer is bribed by smugglers to assist them in avoiding patrols – they can either be investigated by DIICOT prosecutors or by prosecutors from the National Anti-Corruption Directorate (DNA), depending on which agency receives the information and starts the investigative process first. While these are the main bodies involved in OC policing, other institutions may be involved peripherally, or at specific stages during the investigatory process – for example, the Romanian Information Services (SRI) may be tasked with carrying out surveillance (wiretapping, accessing a computer system etc.) due to better equipment and capabilities, or the National Agency for Fiscal Administration (ANAF) and its Customs Directorate might get involved in cases of cross-border smuggling of goods.

Figure 2



The landscape of OC policing in Romania

Defining OC: from law to practice

As indicated previously in the methodology chapter, one of the aims of my research project was to gather and deconstruct individual perceptions and narratives of CJS actors in relation to OC, in order to assess the extent to which Western OC policies have been transferred to Romania. In addition to analysing the legal the legal implications of the American/Western globalising perspective on OC, understanding how this was conceptualised by individual police officers and prosecutors helps shed a light on the practical implications as well. As this chapter will show, the legal and practical conceptualisations of OC in Romania are not always in agreement, and the areas of disagreement between the two make for some interesting findings.

To start with, one pattern which stood out immediately from the interviews was the way the police officers were contradicting themselves in answering questions related to the concept of OC, by describing OCGs as highly organised and hierarchical, and later arguing that in reality they are flexible and loosely-organised. When asked firstly to define what OC is, they generally attempted, more or less successfully, to quote the definition of OCG as per the 2002 legislation, which defines an OCG as:

> [...] a structured group, formed of three or more persons that exists for a period of time and acts in a coordinated manner to the purpose of committing one or more grave offenses, in order to obtain directly or indirectly a financial benefit or another material benefit. (Art. 2, Law 39/2003)

More specifically, both police officers and prosecutors emphasised features such as the size of the group (three or more individuals), the organisation (forming an association and/or acting in concert) and the seriousness of crimes (grave/serious offences). Other elements present in the definition – such as the group's existence over a period of time or its aim of obtaining financial/material benefits – were usually overlooked, suggesting either that they were of lesser importance than the other features, or that they are a presumed common-sense characteristic of all OC.

Some participants added certain characteristics which they thought belonged in the definition, such as an element of vertical hierarchy and highly specialised roles within the organisation. It was unclear whether they thought the legal definition made reference to these or if it was something they thought should be added. Moreover, almost all interviewees explained that an OCG had to be well-structured, something

which is not part of the Romanian legislation on OC. These descriptions fit the Western conceptualisation of OC which is still based on early American descriptions of La Cosa Nostra, emphasising elements like an organisational hierarchy with a capo at the top, specialised roles within the organisation, a code of silence and loyalty (see Cressey, 1969 for an example of this stereotypical depiction of Italian-based OC, although it has been widely criticised for its inaccuracies). This could also be related to some of the definitional problems stemming from the translation of the UN Convention on Transnational Organised Crime (UNTOC) definition into Romanian legislation, as discussed in the legislation chapter. In particular, the misunderstanding about the structured and unstructured nature of an OCG could be due to the fact that UNTOC includes references to what does and does not constitute a structured OCG. These are just some of the many elements pointing to a mismatch between Romanian OC legal policy and policing in practice. Furthermore, some interviewees referred specifically to certain offences:

> An organised crime group is a group of people who associate themselves with the aim of committing crimes, usually serious ones, in the areas of drug trafficking, human trafficking ... Then there's the cyber crimes. Obviously they constitute the group with the aim of making money, lots of money and as quickly as possible (Anton, p3).

The offences they referred to were usually the ones which directly related to the specialisations on the anti-OC brigade. Each brigade usually had one or more officers working on drug trafficking, illegal migration, cybercrime and financial crime. These reflect the priorities set at the national level for combating OC, which in turn mirror the Western conceptualisation of OC as primarily drug and human trafficking, financial crime and the more recent addition of cybercrime. These are all offences

which are perceived as posing a significant threat to national security, and thus deserve a strong response from law-enforcement; however, it should be noted that the anti-OC police is supposed to deal with OCGs regardless of their area of criminal activity, although this chapter will show this is not necessarily the case in practice.

Serious OC

There was an interesting shift in the participants' perceptions of OC when asked to reflect on the characteristics of Romanian OC – *Are they violent? How organised and specialised are they? Are they transnational in nature? How stable and long-lived are they?* In response, many participants seemed to move away from the more classic hierarchical, structured image of OCGs towards a less rigidly organised network-based group, which many perceived as less 'serious' or dangerous than the stereotypical one. In a sense, the ingrained institutional narrative on OC faded away as the experience narrative of the individual emerged. They also argued that, although they were more difficult to detect than larger organisations, loose networks were a lot easier to take down, because the group members often lacked the loyalty to the group or the complex social and familial ties that exist within, for example, mafia-type organisations. In other words, once apprehended, OCG members were much more likely to provide the investigators with information about other group members in exchange to various perks. An interesting point came from Ovidiu, a retired anti-OC investigator and former regional brigade head, who was among the first officers assigned to tackle OC back in the early '90s:

> If you ask me, we don't have organised crime in Romania. Not real [proper] organised crime. We tried to tell the Austrians at some point [...] and the Spanish

> – watch out for these guys, they're stealing [cars] and bringing them here and... and we never heard from them. We found out later they [the Austrian and Spanish authorities] were catching and 'recruiting' the Romanians to infiltrate other groups, like the Albanians, for example. The Spanish couldn't penetrate the group, so they sent Romanians in as informers. And they would let them steal, you know? Those groups are very difficult to penetrate! (Ovidiu, p.5)

In this anecdote Ovidiu explains how in the past his team had tried to warn Austrian and Spanish law-enforcement authorities about the existence of Romanian groups of car thieves operating on their territories. However, they did not receive a reply from them, and found out later that the Austrian and Spanish police had apprehended some of the Romanian thieves and turned them into secret informants, tasked with infiltrating other OCGs and gathering information for the police. His point was that what Romanian authorities considered OC was not seen as much of a threat by foreign authorities, at least when compared to more 'serious' groups, such as Albanian drug OCGs.

The hierarchy of seriousness of OC

The narrative described by Ovidiu reflects one of the elements of the Western conceptualisation of OC as *serious* crime which poses a considerable threat to the security of the state (Sergi, 2016). As explained earlier, the seriousness rhetoric has historically been used to justify the use of more advanced investigative techniques and bypass some of the protections conferred by human rights conventions, ultimately contributing to the securitisation of the OC phenomenon. One indication of Romania's importation of the securitisation paradigm of OC is the inclusion of OC in

the National Defence Strategy for 2020-2024, which highlights smuggling of high-excise goods, drug trafficking and illegal migration, as well as cybercrime, as 'risk factors with increased impact on national security' (Romania's Presidential Administration, 2020: 28).

It is worth highlighting how Ovidiu's anecdote summarised above really emphasises the reality of OC being a fuzzy social construct, and how this construction differs and evolves geographically and temporally. In other words, there is no universally-accepted conceptualisation of OC, as this changes over time and between different jurisdictions, depending on local perceptions and legal practice. Importantly, albeit the OC legislation is very similar across the EU, law-enforcement perceptions and investigative/policing resource constraints result in different policing practices. In Ovidiu's example, what was considered by the Romanian authorities at the time to be a significant threat seemed to be too low-level for Western law-enforcement: car theft primarily affected insurance companies or individuals, whereas Albanian gangs involved in drug or arms trafficking were perceived as a much bigger danger to national security, and thus represented a priority for the police. Interestingly, it was obvious throughout my interviews that the Romanian conceptualisation of the seriousness of OC had changed over time to be in closer alignment with the Western perspective. In fact, almost all my participants made reference to what they perceived as serious OC (Italian mafias, Albanian 'gangs', Roma 'clans'[18], drugs, guns and

[18] It should be clarified that the notions of 'gangs' and 'clans' are, even more so than 'organised crime', steeped in discriminatory and marginalising ethnic and racial stereotypes and often misrepresent the nature and organisation of the criminal groups they aim to describe. The concepts themselves are problematic, having historically and recently been used to target, punish and exclude ethnic and racial minorities. They are solely used in this thesis in direct reference to language used by participants.

human trafficking, economic crime) and less serious OC (petty crimes, low-level contraband, most cybercrime and environmental crime), something which I will discuss further in this chapter, as well as the next one.

Moreover, this perceived *hierarchy of seriousness* is on one hand linked to the Western conceptualisation of *serious* OC, but it is at the same time a reflection of the Romanian legislative changes pertaining to OC which I described in the previous chapter (which were also consequences of policy transfer from UN and EU). Firstly, the introduction of the OC legislation in parallel with the legislation on criminal association meant that judges, prosecutors, and law-enforcement officers had to somehow differentiate between the two categories in order to make sense of them, even though, as shown in the legislation chapter, they were not that different. Furthermore, according to Titus, one of my interviewees who is an expert in Romanian criminal law, the translation of UNTOC into the Romanian legislation created a situation in which some prosecutors built cases on the exception in Law 39/2003. Article 2.a) defined what an OCG is, and then proceeded to state that a group which is formed ‘occasionally’, lacking continuity, structure and pre-established roles did *not* constitute an OCG.

It was this latter point which some prosecutors and judges took to mean that there was a secondary level of incrimination in the OC law, one that did not amount to OC per se, but to a lower, less organised, less serious form. In legal practice, this essentially created another criminal category of ‘unstructured organised crime’, until

the New Penal Code amended the OC legislation and removed the exception. This had the effect of creating a hierarchy based on the perceived seriousness of the offences and criminal groups, with criminal association relegated to basic offences, OC legislation used for the most serious offences, and the 'less than organised' groups somewhere in the middle. When the law on criminal association was abrogated in the New Penal Code of 2014, the legal basis for this differentiation disappeared, but the perspectives shared by my participants suggest that the individual and even institutional conceptualisation remained.

The alien conspiracy theory

A frequent theme arising from many discussions and interviews, as evidenced also by Anton and Ovidiu's responses above, was the differentiation between native OC (i.e. Romanian groups, relatively small scale, not particularly organised or violent) and *others.* Participants often used the analogy of Italian mafias, which many respondents seemed to use as a litmus test for *actual* or *serious* organised crime: 'Well if think about it, the Italian Mafia, La Cosa Nostra, that's organised crime. What we have [in Romania] [is] crooks and low-level criminals' (Ovidiu, p.2). This echoes Sergi's findings in her comparative study of Italian and British OC policing (Sergi, 2017) – that UK law-enforcement respondents were found to emphasise Italian mafias as the representation of OC in its purest form. This is likely a result of the American conceptualisation of OC which, as I explained in the literature analysis, was heavily based on La Cosa Nostra, and which became the inspiration of most media representations of OC. It should come as no surprise, then, that the particular type of OC to fit the stereotypical conceptualisation of OC would be the one that

formed the basis for that conceptualisation (regardless of the level of accuracy) in the first place. Thus, this section will argue that the American alien conspiracy theory of OC (see Cressey, 1969) was successfully adopted by Romanian law-enforcement.

Octavian, the head of a border area anti-OC brigade, argued that it would be impossible to even compare mafias and cartels with Romanian OC, as ‘we’d be comparing their development and experience over hundreds of years, with our few decades of OC’, suggesting that Romanian OC was too young to be taken as seriously as the others. This shows that when they consider Romanian OC, they think specifically about what occurred post-1989, suggesting that there was no OC during communism or even before that. This could be due to the fact that the label of organised crime has not been applied retroactively to offences which took place before the introduction of OC legislation. As I explained in the previous chapter on legislation, the Romanian Penal Code had the offence of criminal association prior to the adoption and implementation of UNTOC into national legislation. Thus, a new criminal category was created.

Woodiwiss and Hobbs (2009) make a similar argument about the emergence of the concept of OC in the UK. They explain that up until the ‘90s, the UK did not have OC, only serious and professional crime. As a result of policy convergence with the US beginning with the Reagan-Thatcher era, the concept of OC started permeating the UK law-enforcement language. This, coupled with a renewed moral panic about ex-

soviet OC infiltrating the UK, as well as an interest by the EU to unify criminal justice policies (Elvins, 2003), led to the identification of OC as a new crime threat in the UK.

Another participant, also a head of an anti-OC brigade, echoed Octavian and Ovidiu's views about their being a difference between real OC, especially Italian mafias, and Romanian OCGs:

> [The term] organised crime encompasses a wide range of offences. In the Romanian understanding of the term... if you were to take proper organised crime, you would be referring to mafia[s], that's organised crime. The legislation was created in such a way to have commonalities with European and international legislation... (Razvan, p1)

Albanian OCGs came up a few times as well, as did OC committed by the Roma minority, particularly in the context of violent OCGs, once again in contrast with Romanian OC which was perceived as mostly non-violent. This indicates a strong adoption of the alien conspiracy discourse which, as I explained in the literature analysis, emerged in the US in the second half of the 20th century and which made its way into Europe soon after. The linking of *serious* or *real* OC to outsiders, people of different ethnicities or nationalities, and further linking them to violent outbursts, threatening behaviour and corruption, serves to set them apart from Romanian OC which is in turn constructed as less harmful by comparison.

The ‘outsiders’ group mentioned the most in this context at the national level was the Roma minority, or more specifically, Roma *clans* – as the media, police and general public commonly refer to them – from the South of Romania. There exists a mythos, almost, around violent Roma gangs fighting each other with swords, attacking emergency services personnel and following their own rules and customs with little regard for the law. The context for this is one in which two thirds of Romanians believe Roma people commit the vast majority of crime, and one third sees Roma communities as direct threats to Romanians (Arun, 2019). This is despite there being no empirical basis for these beliefs (Lee, 2019; Molnar, 2021), aside from a non-peer reviewed, methodologically inadequate publication linking *manele,* a musical genre popular with Romani people, with increased aggressivity, lowered self-control and low cognitive abilities (Iamandescu, 2011).

In spite of this lack of evidence, the media certainly plays a significant role in constructing Roma communities into public enemies (Chiruta, 2021; Erjavec et al., 2000), in a similar way to how the media coverage of high-profile prosecutions of Italian mobster helped cement the mafia myth in the American public’s consciousness. For example, Chiruta (2021) argues that the media discourse regarding Roma communities uses ‘binary grammatical structures and sensationalist, hyperbolic, and stereotypical narratives related to the criminality and violence of the Roma’. While his research primarily looks at the media discourse casting Romani returning from abroad during the Covid-19 pandemic as transmission vectors for the virus in Romania, the findings can easily be extrapolated beyond that, since the media coverage tends to follow the same pattern of demonising and scapegoating

Roma communities. It should come as no surprise, then, that a majority of Romanians still have deeply ingrained racist attitudes against Romani, and police officers are no exception:

> Our main problem in Romania is the criminality caused by the [Roma][19]. Yeah, that's the biggest issue [...] They commit the most crime. 70% of the criminal justice system, meaning police, courts, lawyers, work for and because of them [...] 90% of the time they are at fault. They don't have any education, they don't even want it, they refuse to get an education. (Petre, p3;5)

These statements came out unexpectedly during the interview, in response to my question about a potential profile of the common OC offender. When I asked him to clarify whether the figures he was quoting were based on official statistics, he laughed and said that they were just his opinions, that official statistics showing this would be considered discriminatory. Petre managed to get closer to the truth than he perhaps realised, considering that crime statistics looking at deviance rates by ethnicity can be very misleading. For example, according to a report by the European Network Against Racism and the European Roma Information Office (n.d.), Roma individuals are much more likely to be racially profiled, stopped and searched by the police, arrested and charged with an offence than the local 'native' (white) population across Europe. They are also more likely to receive lengthier prison sentences, meaning they are likely to be overrepresented in the prison system (ibid.). In other words, because they are readily labelled as wrongdoers based on the colour of their skin, they are much more likely to become subjected to judgement and punishment

[19] He used the term 'țigani' which is similar to 'Gypsy' and linked to slavery which Romani people were subjected to in Romania and other countries in Eastern Europe until the 1800s; it has strong negative connotations nowadays.

within the criminal justice system, often trapping them in a cycle of secondary deviance and reimprisonment (Becker, 1963). This, coupled with their disenfranchisement, lack of political representation and poor access to public services like education, health and social benefits lead to the Roma arguably being the most marginalised ethnic group in Europe.

While other respondents have mentioned Roma clans or Roma communities as forms of more organised OCGs, none of them were quite so explicit about their contempt for the Roma as Petre. Unfortunately, though, this does not mean that they were not prejudiced against Romani individuals, which, as shown by a report looking at UK police attitudes towards Roma, Gypsies and Travellers, can lead to an over-criminalisation of the minority, while ignoring their victimisation (Lee, 2019; The Traveller Movement, n.d.). Moreover, they are often scapegoated by society (Pîrvulescu, 2020), law-enforcement, and the media in with regards to OC, from drug use and trafficking to illegal logging or the well-known stereotype of running human trafficking operations (for prostitution and begging) across Europe (European Network Against Racism; and European Roma Information Office, n.d.; Lee, 2019; The Traveller Movement, n.d.).

This conceptualisation completely disregards the fact that in Romania and other CEE countries the Roma are victims of what Young (1999) dubs *the exclusive society,* experiencing social and economic exclusion, compounded by the alienation resulting from a biased, exclusionary criminal justice system. As argued by Erjavec et al.

(2000: 38–39), ‘the marginalized image of Roma communities is connected with the differentness, criminality, and otherness’, fuelled by the alarmist media discourse (ibid.; Chiruta, 2021). As the next chapter will show, all this creates a folk devil (Cohen, 1972), or a convenient enemy to distract people from other actors involved in the same areas of criminality Romani get blamed for, yet again in a similar way to how, according to the alien conspiracy theory, immigrants and other *outsiders* were to blame for much of the organised criminality in the US, in contrast to good, moral (white) American society (Woodiwiss and Hobbs, 2009).

Turning back to my research participants, they generally described Romanian OCGs as loosely-organised, dynamic, and relatively easy to tackle when compared to the other, more serious OC – like the Italian mafias, Albanian gangs, and Roma clans, which tend to be organised along family or community lines, have a closer-knit relationship and last longer. The explanation given by some of the interviewees for this differentiation was that due to Romania’s communist past and the legacy of the oppressive secret police, Romanian law-enforcement was still very strong – by which they usually meant authoritarian – suggesting that native OCGs were not given the space to develop into something more serious. When something built up to a more organised level or whenever violence was involved, ‘the authorities responded as firmly as they could’ (Octavian, p.8) in order to send a message and create a deterrent for such outbursts.

Octavian gives the example of cybercrime, which at one point had been on the rise, with more and more groups emerging and finding new ways to manipulate ATMs and card machines and conduct other kinds of illegal activities. As a result of intensified police efforts against cybercriminals, he concluded, the phenomenon was mostly under control at the time the interview was taking place. His view was shared by several interviewees and is consistent with some of the OC scholarly literature linking the beginnings of stereotypical OCGs, like mafias and cartels, with power vacuums and lack of state regulatory control (Fijnaut, 2014b; Standing, 2010; Varese, 2011).

Some interviewees also argued that this was a plausible explanation for what they saw as the more tightly structured organisation of Roma OCGs (or clans, as they called them). The reality is that in many cases, the Roma are pushed by local governments to the outskirts of cities, often close to garbage dumps, where they build and live in ghettos or shanty towns. There is very little state intervention or service-provision, leaving room for protection rackets to emerge. However, the majority of my interviewees (aside from Petre) did not think that the Roma pose a significant threat to other people or the state, and they argued that the authorities have a good level of control over them. As explained before, following a violent outburst, usually between two or more ‘clans’, a swift intervention by the police re-establishes peace and order relatively quickly.

Laurențiu described the relationship between Roma clan leaders and the Romanian state as one of vassalage as opposed to conflict: ‘the [clan] leaders’ relationship with

the authorities is usually neutral or submissive, so the police generally leave them to deal with their own community affairs, as long as it doesn't boil over and affect Romanians or ends up on the news' (Laurențiu, p.17). They generally do not want to draw the attention of or interact with the authorities, and thus exert their own form of social control on their clans or wider communities, keeping people in check to avoid state interference. Once again, this links to the OC literature on governance services provided by OCGs whenever the state fails to do so (Fijnaut, 2014; Standing, 2010; Varese, 2011).

While the original alien conspiracy theory referred to foreign crime groups infiltrating American society, it could be argued that, in a broader interpretation of that theory, alien might mean *outsiders.* Thus, as a result of the exclusionary rhetoric regarding the Roma, they could be considered almost alien in this context. In any case, it goes without saying that this alien conspiracy narrative, both in its original American incarnation of the imagined, globally-connected, unified, Italian crime syndicate which ruled the underworld, and in its broader interpretation which extends to other nationalities and ethnicities, is greatly exaggerated and problematic. The *mafia myth* serves to:

> […] evoke images of secretive organisations, engaging in crime, violence and corruption. Crucially, the organisations seemingly are built on shared traditions, norms, values and rituals rooted in the common ethnicity of the individuals within them (Sergi, 2019b).

As Sergi (2019a) explains, the emphasis on the shared characteristics of the members – usually their ethnic or geographic origin or familial connections – results

in an overestimation of the level of organisation and a shift in focus away from the criminal activities. This in turn poses challenges in planning an appropriate response to the crime phenomenon, centring particular minorities as the cause for OC and leading to the marginalisation and possible criminalisation of entire ethnic groups, as was the case with Italian immigrants into the US in the 20th century.

Organised crime by any other name?

The present section discusses the accuracy of the terms ‘organised’ and ‘crime’ to describe the phenomenon which Romanian law-enforcement officers and prosecutors deal with in their day-to-day activities. In addition to the hierarchy of seriousness mentioned previously, some participants even questioned the accuracy of the concept of organised crime in Romanian, although others did not believe that this raised any issues. This illustrates the impreciseness of the term, as individual agents defined and interpreted it according to their own (socially constructed) beliefs and experiences.

In one of my field locations, a town on Romania’s border with Ukraine, Dumitru, a senior law-enforcement agent, argued that the translation of the term organised crime into Romanian overestimates the seriousness of it: in Romanian, ‘crima’ taken literally means murder, a much more specific and serious offence than what is understood by ‘crime’ in English. In legal terms, it refers to a broader category of very serious offences with a high degree of social danger/impact, and which generally receive the toughest sentences (the word is also used in several phrases pertaining

to wars and conflicts, i.e. war crimes, crimes against humanity). The previous offence of criminal association, ‘asocierea pentru săvârșirea de infracțiuni’ (literally translated as ‘an association with the aim of committing infractions’, i.e. misdemeanours), he argued, was a better fit as it clearly and appropriately labelled the offence.

> I think we haven’t gotten to the level of the Italian Mafia. We definitely haven’t... Over here in Romania, in my opinion, it’s an exaggeration – ‘organised crime’ – including the meaning of the word ‘crime’. In the case of the Italian Mafia, there were cases where they ended up executing people. Here, the aim of these groups was/is to make money, not to kill anyone. There could be a different term, ‘infracționalitate organizată’ [organised offending], that could refer to stealing timber for example, there can be organisation in that area, recruiting a forest warden... but the word [crima] is too strong for what’s happening here, if we are to compare to other European states. (Dumitru, p. 5-6)

This issue is a very good illustration of Melossi’s (2004) argument that, when it comes to the transfer of criminal justice policy, a perfect translation is not possible. Even when done word-for-word, as ‘any term, even the simplest, is embedded within a cultural context, or milieu, that gives it its meaning’ (2000: 144).

Other participants shared Dumitru’s belief that the organised crime was an exaggeration. This repeated comparison of small, flexible and comparatively powerless Romanian OC with ‘proper’ Italian mafias highlighted the two competing narratives which law-enforcement had to contend with: one stereotypical, highly glamourised and, in large part, manufactured, and one based on the reality of their daily experience investigating and tackling OC in Romania. It is a distinction that many scholars have highlighted, between the American-inspired conceptualisation of OC and the realities of OC uncovered by those researching the phenomenon.

The first is in line with the alien conspiracy rhetoric, the myth of ‘classic’ OC groups, like the Italian mafias or South-American drug cartels, with certain defining characteristics such as following a vertical hierarchical organisation, employing violence or the threat of violence, corruption of public officials and money-laundering, aiming to gain both financial benefits and power, and sharing a certain collective/group identity established through various rituals (Finckenauer, 2005; Marquina, 2008; Sergi, 2017; United Nations Office on Drugs and Crime, 2002; van Dijk, 2007; von Lampe, 2008). In reality, most OCGs generally take the shape of horizontally-structured criminal networks with less clearly-defined roles, and are considered to be more flexible and opportunistic. These tend to be almost exclusively financially motivated, usually lacking a group identity; they might avoid detection through occasional lower-level corruption (of law-enforcement), rather than a close relationship with top public officials (Finckenauer, 2005; Sergi, 2017; United Nations Office on Drugs and Crime, 2002).

Overall, my research participants agreed that Romanian OC better fits this latter conceptualisation of OC. However, this is somewhat at odds with the Romanian legislation on OC which emphasises the group membership – although in the newer legislation the definition for what constitutes an OCG has been widened to a point where it could apply to any group of criminals. In any case, it is safe to say that despite the reality of OC in Romania, the myth of the mafia has well and truly been accepted and adopted by CJS actors there:

> An organised group involves some kind of preparation, a level of premeditation, the implementation, you need organisers, collaborators... That's what I'm saying, with organised crime you can look at it from the macro perspective, like the Italians. The have four main mafia families in the whole of Italy. That's who the anti-mafia handle [...] But we don't have, and we don't want to have something like that. That phenomenon, those families grew [in power] due to the authorities' impotence to stop them. And at some point they were so rich that they were buying everyone off. Which doesn't happen in Romania. And what we see on TV, with the 'sportsmen clans'[20]... those are just some former athletes/sportsmen who act out for shock value ... they're not the types for planning a development or growth strategy, political involvement, they don't have the financial resources, if they did maybe we'd be confronted with something similar over here too... So it is what it is, no matter what our justice system in Romania is like, the law is applied and followed. Sooner or later, but the law is applied! (Razvan, p3)

Razvan's (head of an anti-OC brigade) explanation above is a clear indicator that his understanding of 'real' OC is based on the American conceptualisation of Italian mafias, as opposed to any current empirical evidence; the family links, corrupt connections and political involvement closely align with the early US reports on La Cosa Nostra (Jacobs and Gouldin, 1999; Sergi, 2017) and do not accurately reflect the OC phenomenon Italian authorities are contending with nowadays (Lavorgna and Sergi, 2014; Sergi, 2019a). Nevertheless, when the Romanian legislation on OC was first adopted and new policing agencies were specially created to combat the newly-identified threat, there was an emphasis on successful convictions, the more the better. Some would put this zealousness down to Romanians' tendencies to be over-achievers, although post-soviet scholars might put it down to a legacy of communist

[20] A group of former sportsmen, football fans and professional fighters who used to work as private security in Bucharest; turned into racketeering and extorting businesses while also providing security and enforcement for other OCGs

Stakhanovism[21]. An anecdote I heard on more than one occasion neatly illustrates this:

> One of our directors went to Spain on a work visit, and the Spanish officers asked him – 'How many organised crime groups do you have in Romania?' and he told them 'I'm not sure. Around 600'. And they replied 'Wow, we have about 8!' [...] At that time it was a bit different, the [emphasis] was on standing out, showing results. They used to, for cannabis crops, they used to divide them in one by one metre squares and they would pick a square and count and weigh it, and they'd multiply it by the number of squares... but that's not how crops work in reality. And then when we told other countries about our drug seizures, they started telling us we were becoming a producing country and it became a problem. So then they [at the top] said 'Wait! Stop, this isn't right'... And we changed the way we count! [...] This was in the late '90s, early 2000s. (Ovidiu, p2)

Ovidiu's anecdote shows how the early conceptualisation of OCGs by Romanian law-enforcement differed significantly from Western ones. One potential explanation could be, as highlighted above, the inertia of over-productivity – or in this case, over-policing – resulting from decades of soviet propaganda about the meeting and surpassing of set targets. Indeed, as both Ovidiu and Petre told me, in the transition period, the focus was on closing a certain number of cases or securing so many convictions; they were not supposed to fall behind other regions in terms of their performance, as if they had control on how many crimes were committed in their region in any given period. The regional comparisons and chasing of targets had some clear negative consequences. AS Ovidiu and Ivan explained, it was not uncommon at the time for police officers to apprehend a low-level offender and

[21] Stakhanovism (from the name of Alexei Stakhanov, a coal miner in the USSR) refers to an element of Soviet propaganda which encouraged hard work and efficiency of workers in order to constantly surpass productivity targets. This was done by rewarding those who were the most productive. In this context it refers to the excessive focus on productivity targets and increased performance which is still prevalent in many areas of the bureaucratic state apparatus in Romania.

charge them with a whole slew of crimes they may or may not have been involved with, or with several counts of whatever offences they could pin on them. It is likely that the Romanian officer from the anecdote above wanted to assure his Spanish counterpart of the efficiency and hard work of the Romanian authorities, not realising that the existence of hundreds of OCGs might reflect poorly on Romania and its law-enforcement authorities.

Moreover, a second possible reason for this difference in conceptualisation is that the Westernised hegemonic rhetoric on OC had not yet taken hold in Romania. As I explained in the previous chapter, Romania's law on criminal association[22] was a long-standing piece of legislation which was used, until relatively recently, to investigate and tackle crimes committed by groups of people. When the legislation on OC was introduced in 2003[23], the distinction between the two offences was unclear to many; police officers and prosecutors saw the new legislation as an opportunity to put the same people behind bars from longer, not necessarily as a more nuanced and 'serious' version of the criminal association offence. It is possible, then, that the legislation on OC was used a lot more liberally than in the West, for investigating groups and crimes of a less 'serious' nature. Alternatively, the officer in question may have combined statistics for OCGs and criminal associations, as cases which did not stick an OCG charge in court were downgraded to the latter.

Nevertheless, Ovidiu's anecdote highlights the early stages of policy and rhetoric transfer into Romania from the West. The legislation was adapted as per UNTOC

[22] Art. 323 from the Old Penal Code of 1969
[23] Law nr. 39/2003

(the UN Convention of Transnational Organised Crime), however, due to communism, Romania had skipped several decades of being subjected to US/Western foreign policy (and Hollywood depictions of mumbling mobsters with cryptic catchphrases). As a consequence, the social and cultural conceptualisation had not caught up with the legal construction at that point in time. Arguably, it still has not fully caught up – as the next section shows, there continues to be a significant mismatch between the legislation on OC and the policing and prosecuting activities of the organisations which are supposed to enforce it.

Anti-OC Policing: By which law?

As I explained at the start of this chapter, OC investigations are prosecutor-led, meaning that from the start of the investigative process the case prosecutor directs the investigating officers throughout the case, and decides which charges to put forward to the courts once the investigation is concluded. From my interviews with prosecutors, as well as from the case files I was given access to, I was surprised to find out that the legislation criminalising OCGs is rarely used in the indictments brought forward by DIICOT, and even more rarely accepted as a charge by the case judge. Despite the fact that the prosecutors and police officers work in specialist structures created to deal with OC (not to mention that it is in the names of these institutions), their conceptualisation OC seems to differ from the legal conceptualisation of OC.

In practice, in most cases investigated by BCCOs and prosecuted by DIICOT, the legislation used is the one criminalising the primary offence, be it drug trafficking, illegal migration, contraband etc., which is consistent with Sergi's (2015) conclusions about prosecuting OC in the UK. As Maxim, an anti-OC officer specialised in drug trafficking, told me: 'if it's a drug offence, whether there's an OC group associated with it [or not], we have jurisdiction and go after them using the anti-drug legislation'. 'Even if it's one person on their own, growing cannabis for their own consumption?' I asked; 'Even then, the anti-drug legislation applies so we're going to bring them in and charge them with that', he explained. The reason I found this fascinating was because the Romanian legal conceptualisation of OC as per Art. 367[24] is based on the structure paradigm of OC, with the law defining the OCG as the key element of OC. However, when it came to the enforcement side, the conceptualisation was more in line with the activity model of OC (Sergi, 2015, 2017).

In other words, the anti-OC police and prosecution structures seem to follow more of an activity-based model of OC, in which the focus is on particular offences generally associated with OC, rather than the structure model which, like in the legislation, is concerned with the OC group. Even under the new legislation, which no longer makes reference to the types and seriousness of the crimes committed (see previous chapter), this pattern of focusing investigative effort and resources on crimes, no matter how small or harmful, related to drugs, human trafficking, financial crime and cybercrime (with the addition of contraband and/or smuggling of goods where relevant) continues. The main explanation for this is that Paragraph (1) of Law

[24] Art. 367(6) in the New Penal Code

508/2004 on the creation of DIICOT assigned a range of offences to fall within the competency/jurisdiction of the new institution in addition to the specific law on OC, including offences pertaining to the legislation on drug and human trafficking, national security, and cybercrime. In fact, Paragraph (2) of Law 508/2004 states that 'DIICOT special prosecutors *are required* to investigate the offences listed in (1)', thus precluding any other agencies from carrying out investigations in these areas[25].

It is worth mentioning that Art. 367 was used more often in the preliminary investigation phase, as it makes it easier for the investigators to justify and obtain approval for more extensive investigative powers, as well as longer periods in police custody for suspects. Nevertheless, according to anti-OC officers, they rarely get to use the OC legislation in their cases past the preliminary investigation, having to focus on whatever charges are easier to prove:

> It's becoming harder and harder... to demonstrate/prove an OCG charge. They [the prosecutors and courts] are very scrupulous about the criteria from the law. They want the group to have existed for a while, to have had a longer period of activity, to have a leader, to have... We had clear-cut cases, it was obvious they were an organised crime group, but the courts tore it [the case] apart. I don't know, they expect... it's very, very difficult to gather all evidence [they require]. It's very difficult to obtain a conviction for the group offence. (Anton, p.3)

It seems like despite the widening of the legal definition of OC, the social construction of OC within the CJS has not mirrored this shift, and many actors still operate with

[25] With the exception of the National Anti-Corruption Agency (DNA) in cases where corruption was involved.

the conceptualisation of the highly structured, covert and powerful groups as the archetype for OC. This appears to be a significant source of frustration and tension between the police and the courts, with prosecutors caught in the middle of it. A few participants felt that due to recent major anti-corruption acquittals (caused by heavy-handed prosecutors, poorly evidenced cases, huge media attention), reversed verdicts and corruption (B.P., 2021), judges now exercise greater caution and demand higher standards of evidence for accepting an OCG charge (Maxim, p.3); sometimes prosecutors were said to do the same, possibly in anticipation of the judges' expectations.

Several participants expressed concerns that due to negative media attention it is now more difficult to obtain convictions for OCG activity. Others felt that even before the corruption scandals, the courts' perception of what OC is and looks like often translated into demands for stronger evidence than law-enforcement felt was needed. Anton, an anti-OC officer, explained that, if there was no evidence of a clear leader, with lieutenants and soldiers (so, a stereotypical mafia-type hierarchy), judges were less likely to accept OC charges (and instead only retained the primary offences). His view was shared by one of the prosecutors, who argued that the standard of evidence required for building OC cases to a level which satisfied most judges was beyond the scope of the legislation. While I was not able to corroborate this during my research, it would make a good topic for future enquiries on the topic.

On a related note, there are crimes which would, in theory, fit the legal definition of OC, but do not fall in the categories which anti-OC prosecutors have explicit jurisdiction over, and are thus handled by the regular police departments. As explained in the previous chapter, the legislation for the establishment of the anti-OC prosecution agency (DIICOT) outlines a series of offences which DIICOT prosecutors *must* investigate. Despite the fact that the law also enables them to have jurisdiction in any cases which fall under OC legislation, it seems that unless the primary offence is one of the crimes specifically outlined in the DIICOT legislation, the agency does not act in those cases. This means that some crimes which fit the OC legal definition are left to be dealt with by departments with fewer resources, less experienced or qualified officers and with lessened investigative powers, something I will discuss in greater detail in the following chapter. In addition, these departments should, in theory, immediately give up jurisdiction in cases where they identify the possible involvement of an OCG; however, according to Maxim:

> Other police departments don't want to give us the cases they've been working on for years at times. They want to be the ones to see them through, so even if they suspect there could be cause for an OCG charge, they don't include it, so they don't have to give it to us. (Maxim, p.10)

This problem, he says, is also exacerbated by performance pressures; he explains that when a case is referred to a different department, the team that handled it up until that point gets no recognition for the work they put into the case, and the potential conviction does not count for their performance. Linking this with the bureaucratic obsession with targets and performance which I detailed above, it becomes clear why most police officers would be at least a little reticent about letting

someone else take credit for their hard work. Nonetheless, this obviously contributes to the conceptualisation of OC through police practice and strengthens the belief that OC only involves those criminal activities OC most typically associate with the phenomenon. As a result,it could be that some offences, like illegal logging or the illegal disposal of waste, may not be conceptualised as OC at least in part because of organisational territoriality.

This points to a mismatch in the conceptualisation of OC between legislation, practice and perception. As I showed in the previous chapter, the elements of organisational hierarchy and role specialisation are not, and have never been, part of the Romanian legislation on OC. While the Romanian legal definition of OC has been widening over time and losing some of its original characteristics (see previous chapter), the perception of those in the criminal justice system has not necessarily followed suit. It could be that the legal practitioners are playing catch-up and the newer definition of an OCG has not fully taken hold yet. A different explanation, as given by some participants, could be that judges are reluctant to approve comprehensive surveillance measures unless there is strong evidence to support such a request by law-enforcement (whether this would be to safeguard privacy and other individual liberties, or to protect judges' own reputations in the context of extensive media scrutiny was unclear, according to some participants). Another possibility is that judges and prosecutors might not necessarily consider the OC charge as much of an added bonus – if the police already have enough evidence to ensure a drug trafficking conviction, for example, they might prefer to expedite the process rather than divert more time, personnel and other resources to potentially

add a few more years to someone's imprisonment, thus reinforcing the activity-focused model of OC.

My participants also argued that there are differences in how law-enforcement and the courts perceive the investigative process and the aims of criminal investigations. For example, Maxim, the officer specialised in combatting drug trafficking in a border location, told me about two cases in which his team attempted to dismantle an OCG, but their evidence was dismissed by the courts on the grounds that they had committed entrapment, which he disagreed with:

> We had two cases where they [courts] discounted our evidence after our third authorised purchase [of drugs]. Arguing that, I don't know, two purchases were enough to get a conviction. But that way we don't get to the capi [heads] [...] you have to go step by step, from the street dealer, to the supplier, to the one who provides the drugs to the supplier ... in order to show it's an organised crime group and to get a conviction for the group offence [...] they said we were entrapping them, that by buying drugs six or seven times from a dealer, progressively, to get to the point where we could do a sting operation, they consider that a provocation/entrapment: 'He wouldn't have sold you those quantities if you hadn't kept pushing and buying!' even though the guy has clients to whom he sells similar quantities. An aberration. If I catch him after two offences the punishment is much lower, it's also set based on the quantity sold and so on. (Anton, p.4)

This tension between what officers think they should be able to do and what they think the courts consider acceptable and legitimate mimics the two competing elements involved in policing OC and terrorism as outlined in the literature chapter. On the one hand, the ideals of democratic policing dictate that authorities respect and protect citizens' rights in the course of their investigations. On the other hand,

law-enforcement officers consider it legitimate to encroach on more individual freedoms than in less serious offences, as long as the wrongdoers are apprehended and face justice, similar to what Karl Klockars (1980) refers to as ‘the Dirty Harry Problem’. This idea, named after the 1971 Clint Eastwood film, describes a certain situation in which a police officer encounters a moral dilemma, one with no real perfect solution: they can either try to stick to the procedure for apprehending criminals, despite knowing it will not work, walk away from what they know to be a crime, or employ ‘dirty means’ to reach their goal. Klockars explains how officers who choose the latter ‘lose their sense of moral proportion, fail to care, turn cynical, or allow their passionate caring to lead them to employ dirty means too crudely or too readily’ (1980: 33), which could arguably describe much of anti-OC policing in Romania.

Linking this back to OC, it appears like there are parallel competing conceptualisations of OC: while the main piece of legislation on OC follows the UNTOC structure-based definition of OC by focusing on OCGs, the conceptualisation forming the basis of (and being reinforced by) anti-OC investigations and prosecutions is focused on certain activity types. It could also be argued that a third conceptualisation exists, being promoted by judges and other practitioners focusing even more on the structural characteristics of OCGs, although further research is needed to elucidate the perceptions and understandings of magistrates and judges with regards to OC.

In any case, as I explained in the previous chapter on legislation, the amendment to the definition for OCGs, including the removal of the seriousness, time and financial benefit criteria, should have theoretically resulted in a broader application of the OC legislation. However, interestingly, at least until the time of this research, it seems that this was not the case, and that judges and prosecutors were even more guarded than before. It would appear that the Hollywood-inspired mafia myth may have had a strong enough impact on the social construction of OC in Romania that legal professionals are reluctant to deviate from it, even when the legislation enables them to do so. Furthermore, the backlash the courts and prosecutors experienced as a result of failed or questionable prosecutions has likely determined them to focus on easy to prove cases, even if that means lower punishments.

This resistance to apply the broader OC legislation could also be a repercussion of the previous version of this legislation existing concurrently with the offence of criminal association, thus cementing the hierarchy of seriousness of crime in the minds of judges and other CJS actors. Even if the new definition of OCG is supposed to encompass both what was previously considered OC and what fell under the label of criminal association, it seems that practitioners are not ready to accept that change. In that sense, it could perhaps be argued that the adoption of OC legislation becomes a box-ticking exercise, a symbolic tool of European and global alignment to show Romania is taking the fight against OC seriously.

The case of cigarette smuggling: organised crime or disorganised crime[26]?

Perhaps no other example can more aptly illustrate some of the contradictions and idiosyncrasies resulting from the various conceptualisations of OC than the case of cigarette smuggling in Romania. In Tistown, on the border with Ukraine, one participant told me that up to 80% of their law-enforcement activities relate to the smuggling of cigarettes from Ukraine into Romania (the second most significant OC type in the area was illegal migration, though this was decreasing by the time I was conducting my fieldwork). According to Dumitru and other officers from the border, the methods used to smuggle the cigarettes into Romania and evade border controls were diverse, and often involved crossing the border illegally. Interestingly, in order to avoid physically crossing the border themselves, some smugglers had become quite advanced, modifying drones, and using them to carry small amounts of cigarettes across the border over a period of time. At the same time, others were using tried and tested methods, like loading horses with large amounts of cigarettes, taking them through hidden mountain passes and leaving them to cross into Romania by themselves, where the local smugglers would unload the goods and carry out the distribution. The horses had learned the routes over time. Some of the cigarettes were intended to reach Western Europe, while others were to be distributed to different areas of Romania.

[26] The term ‘disorganised crime’ was first used by Reuter (1983) to challenge the commonly-accepted notion that the American illicit markets at that point were ruled by single powerful, well-connected groups of criminals who used violence and political corruption to control said markets. Reuter uses economic analysis to explain that ‘numerous purely economic consequences, 'invisible hand' factors, lead to illegal markets being served by localized, fragmented, ephemeral, and undiversified enterprises" (Reuter, 1983: 130-31), rather than structured, unified organisations, and thus proposes the term ‘disorganised crime’.

One border guard told me that for men in Tistown and surrounding villages, their options were either to leave, join the border force or anti-OC police, or become a cigarette smuggler. This comment does an excellent job of describing the extent and local significance of the cigarette smuggling phenomenon in the area. Something else that stood out from the days I spent in Tistown was the news that, the night after I had arrived there and begun my research, one of the lead officers of the Ukrainian border control force was run over by a car while in active duty by a driver who was known to be involved in cigarette smuggling. In a case file I received from the Tistown anti-OC police describes instances where smugglers made unfounded complaints and accusations about officers working on cigarette smuggling cases. The particular OC case that the file documents indicates that some of the smugglers were in fact members of the Social-Democrat Party (PSD), the party which formed the majority of Romania's government at the time. According to the case files, these individuals:

> […] attempted to use their links to governing parties (the Social-Democrat Party) in order to move or remove certain officers within the Tistown border police, or to initiate disciplinary action against them for alleged "abuses" committed while carrying out their duties, all with the sole aim of removing any obstacles that the crime group faced (Tistown cigarette smuggling file, p.6)

The case file also includes transcripts of phone recordings of JP, one of the main members of the group, who according to his own admission was well-connected and high-ranking within the party membership, indicating that he felt his position meant he could control law-enforcement activities and investigations from the top:

> JP: So, do you know where my friend from DGA [27] works now?

[27] DGA is the police anti-corruption branch (the General Anticorruption Directorate)

> Other participant: No!
>
> JP: In the [Interior Affairs] Minister's Control Corps[28]!
>
> OP: Are you crazy? The guy you were supposed to be meeting with today?
>
> […] JP: And there's SRI, and ohh, SIPI and all of them [expletives]
>
> OP: Not bad, man, not bad!
>
> […] JP: I AM THE COMMANDER! (Tistown cigarette smuggling file, p.7-8)

The document indicates that the Minister's Control Corps did, in fact, begin an investigation of the border police in Tistown. It also shows that, aside from intimidation and political pressure, the smuggling group 'promised certain sums of money to some border police officers in exchange for guaranteeing the safe, unhindered passage of cigarettes across the border into Romania' (Tistown cigarette smuggling file, p.9). This particular case shows a level of political involvement which goes beyond any other recent cases or criminal groups described to me by my research participants (although, as the next chapter shows, there are some similarities with the corruption in the illegal logging sector). It was recognised by participants as an exception, rather than the rule in terms of cigarette smuggling groups in Romania. When asked specifically about the level of organisation of smuggling groups at the border, Dumitru and others generally described the groups as flexible, loosely-organised and low-risk for violence or political interference. The charges brought against them when caught rarely include the offence of participating in an OCG. Despite this, and albeit such organised cases of cigarette smuggling as the one above seem to be few and far between, the extent of the cigarette smuggling phenomenon at the border and political pressures to crack down on the smuggling

[28] The Minister's Control Corps is a centralised structure directly under the Interior Affairs Minister which is tasked with conducting investigations and controls and following up on complaints regarding police forces and inspectorates.

operations contribute to the construction of this particular crime type as a serious organised crime.

That is, the phenomenon is described as a serious crime problem at the border and in official discourse. Contrastingly, in Samsburg, about 3 hours away from the town of Tistown, cigarette contraband or smuggling was seen by law-enforcement as of little importance. In one case, one of my participants told me of a recent conversation he had with a friend working in anti-OC policing in Samsburg, in which the friend expressed his frustration at 'being made to chase after one pack of cigarettes instead of dealing with the *real problems*' (emphasis added). This sentiment was echoed by interviewees from Samsburg and other non-border locations who, when asked about whether cigarette smuggling represented a significant organised crime problem, generally answered along the following lines: there is some smuggling but not here (in the city), they deal with it at the borders, it's their problem[29]. A similar, somewhat dismissive tone was often used in relation to illegal logging.

In a sense, this resembles the different attitudes to the car theft example described earlier in this chapter, in which the Romanian authorities' concern regarding the activities of a group of Romanian car thieves in Spain was met with disinterest by the Spanish law-enforcement authorities. This could be due to each local area having its own perceived specific set of OC problems. I specify perceived because, while the officers' perception of the crime problems in their area is largely informed by the

[29] This snippet is based on field notes paraphrasing the words of two participants who did not agree to being recorded

cases they come across, the cases that get assigned to the anti-OC police are selected by the anti-OC prosecutors, leaving space for discretionary practices. In the case of Traian, the anti-OC prosecutor from Samsburg, when I first interviewed him he told me that cannabis was a gateway drug for heroin and cocaine and thus it was very important that the anti-OC police take a tough stance against cannabis dealers and growers, regardless of the level or quantity they were found to be in possession of. When I interviewed him a second time, less than six months later, he expressed the view that cannabis was not really a high-risk substance and so they were not prioritising the investigation and enforcement of cannabis-only cases. Seeing as Traian was the Chief Anti-OC Prosecutor for Samsburg, and that it is the prosecutors who decide which cases are assigned to the anti-OC police, it can be argued that the local perceived significance of various crime problems is, in large part, socially constructed.

Furthermore, the fact that cigarette smuggling does constitute a policing priority at all could arguably be due to a level of successful policy transfer. The preamble of the case file I received from Tistown justifies the need to combat cigarette smuggling by explaining the following:

> Romania, as a member of the European Union, and through participating in international conventions, adopted a series of responsibilities regarding the prevention, investigation and punishment of customs' offences, crimes which often take place in conjunction with money laundering, terrorism financing and organised crime. (Tistown cigarette smuggling file, p.5)

The document continues to explain that there is a recent increase (the extent of which is unspecified) in the number of crime groups involved in cigarette smuggling

as a means to get rich quickly, and that these groups have connections with Ukrainian citizens and organisations, as well as with Romanians from various towns and cities in Romania. In our interview, Dumitru mentioned several times that ordinary people do not necessarily see why the police prioritise the combatting of cigarette contraband over other, according to them, more harmful, crimes:

> Regarding cigarette contraband, the ordinary citizen's perception is as follows: they [the smugglers] bought the cigarettes, paid for them, didn't steal them and aren't forcing anyone to buy and smoke them, people buy them of their own free will. "Officer, why aren't you chasing after the thieves and violent criminals, those who break into homes…" [instead of the smugglers]. That's their perception! (Dumitru, p. 5)

It is therefore plausible that the increased focus on tackling cigarette smuggling on Romania's northern border is related to the expectations that the country safeguards the borders of the European Union against unwanted, untaxed goods. At the same time, participants like Ovidiu (p.10) made reference to pressures from tobacco multinational companies regarding the tough enforcement against the smuggling of tobacco products in order to protect their profits and corporate interests.

The particularities of cigarette contraband in the context of policing OC in Romania make this an interesting case study. It can be argued that, while untaxed cigarettes seem like a minor issue elsewhere, on the border it is very much linked to issues of border security and transnational crime. As a result, the official discourse and the policing response at the border draw on elements of the securitisation paradigm of OC, which as indicated earlier in this thesis is an element of global policy transfer. In essence, cigarette smuggling becomes a significant crime problem in official

discourse due to outside pressures, and this is then used to drive the policing agenda at the border and, to a lesser extent, elsewhere.

Conversely, in non-border areas of Romania the crime type is seen by police officers almost as a matter of tax evasion (top-down pressures from senior officials to tackle the phenomenon notwithstanding) or simply as an issue for the border police (due to border security implications). The actual sale of untaxed cigarettes to willing consumers is not necessarily seen as a serious/organised crime policing problem in itself. This illustrates the contextual seriousness of cigarette smuggling in particular, and OC more generally, which affects the way OC types are conceptualised locally. As a result of these local particularities, the hierarchy of seriousness differs in different parts of the country, leading to uneven police practices between areas. Therefore, although international policies on OC and the widening legal definition of OC in Romania aimed to unify policing practices across the EU and globally, this has not even been the case at the national level. In fact, not only did the transfer of OC policy fail to achieve this goal of uniformization, but due to the fact that the policies and conceptualisations that underpin them are derived from Western ideas about OC, they have actually caused issues regarding the criminalisation and combatting of certain crime types in Romania. The following chapter looks at the case of illegal logging, which shows some of the consequences of prioritising Western crime priorities and neglecting local and national ones. In contrast with the smuggling case, it indicates that, when there is no political will to respond to a crime phenomenon, the hierarchy of seriousness of OC results in significant crime problems being neglected.

Discussion and conclusions

To conclude, the importation of the American/Western conceptualisation of OC and of the Hollywood mafia myth into the social construction of OC in Romania could be argued to have been successful, at least with regards to those working in the CJS. The creation of false demons or public enemies out of the Roma and, to a lesser extent, other groups perceived as 'others', is in line with the dominant rhetoric on OC, and resembles the early alien conspiracy theory. As shown in this chapter, there seems to be a tension between the legal conceptualisation of OC (as per Art. 367) and the perceptions of law-enforcement and prosecutors about the phenomenon. While the legislation constructs OC as being structured, serious and posing a significant threat, my respondents paint a different picture, one of loosely organised, low-threat networks of opportunistic individuals.

The interviewees largely felt that the Romanian legislation on OC was inaccurate, both in its terminology and its description of the Romanian OC phenomenon. At the same time, their perceptions generally aligned with the activity model of OC, while the legislation is built on the structure paradigm of OC. Moreover, the specialised structures as imposed by EU to divert resources and focus on specific OC 'threats' contradicts the structure model and leaves certain crimes to be dealt with by the national police, only with fewer resources – something which will be discussed further in the next chapter. This, coupled with the exposure to the media depictions of shadowy OC syndicates, resulted in the emergence of a hierarchy of seriousness of OC, whereby only the most stereotypical offences are readily labelled as OC. The hierarchy of seriousness is further affected by contextual seriousness and top-down

policing priorities, leading to differing hierarchies across different regions of the country. In any case, it can be argued that both the legal and social conceptualisations of OC in Romania were likely influenced by Western/American rhetoric regarding the phenomenon.

Chapter 6. Illegal logging in Romania: a case study on the seriousness of organised crime

Introduction

In the present chapter I will firstly give a brief overview of the concept of illegal logging and highlight the relevance of this phenomenon within the context of this thesis. Secondly, I will show how Romania's complicated history of land ownership and its post-soviet particularities relate to illegal logging, having enabled criminal organisations to exploit the environment extensively. Thirdly, using data from law-enforcement interviews, historical information and reports by environmental organisations and investigative journalists, this chapter will highlight the harms caused by illegal logging in Romania and attempt to tease out the reasons why this problem has continued to plague the country for the past 30 years. The aim is to use the issue of illegal logging in Romania as a case study to illustrate how the stereotypical Westernised/Americanised definition and conceptualisations of OC do not always fit the reality of OC at the local or even national level.

This chapter argues that, in fact, an over-reliance on imported understandings of OC can focus attention away from local problems towards those which are considered of higher priority elsewhere. As Karstedt (2003) suggests, some of the crime problems and particularities of post-communist countries have been overlooked due to the need to cater to American, European or other international interests in terms of policy and law-enforcement. Certain social and economic pre-existing conditions, such as the close-knit social networks, juxtaposed on deep socio-economic inequalities,

systemic clientelism, the continuation of the economy of favours (Ledeneva, 1998) and informal exchanges, all play a part in complicating the picture of OC and its policing in Romania. The analysis of (the lack of interest in) illegal logging policing helps illustrate these phenomena and will ultimately contribute to the critique of international policy transfer.

Transnational environmental crime (TEC) was included in the 2010 agenda of the Conference of the Parties to the UNTOC among the emerging forms of crime (Conference of the Parties, 2010). However, illegal logging, which constitutes the focus of this chapter, remains among the few areas of TEC not regulated by international or regional agreements, creating unnecessary barriers for policing. The European Commission defines illegal logging as 'the harvesting of timber in contravention of the laws and regulations of the country of harvest' (European Commission, n.d.). Some illegal logging offences include logging of protected or endangered species; logging in protected areas; excessive logging; logging without paperwork or with fraudulent paperwork; not paying taxes etc. (UNODC, 2012: 36). It is important to note at this point that overly legalistic definitions of environmental crime and illegal logging specifically are usually problematic in themselves.

A good illustration of this issue is the fact that, as White put it, 'the most ecologically destructive activities such as clear-felling of old growth forests remain quite legal, while more benign practices such as growing of hemp for fibre are still criminalised' (White, 2013: 4). As I will address later in more detail, although excessive logging was not technically illegal during the transition period in Romania, it was still very

much harmful, unjust and unfair. Thus, although the chapter will mostly focus on the creative ways in which criminals eschew logging regulations, the concept of harm as used by environmental criminologists will prove useful in fully understanding the impact logging has had in Romania.

Although there seem to be some positive signs in the EU that there is increasing concern regarding environmental crimes and an appetite for taking steps to combat them, the same cannot be said of Romania (Radio Free Europe, 2020). As shown in the previous chapters, the heavily Westernised conceptualisation of OC has become very entrenched in Romania, at least in some respects, and has dictated the national anti-OC priorities. In contrast to those crime types which are traditionally conjured up at the mention of OC, offences such as illegal logging are yet to be treated with the same concern and seriousness by national and international authorities. While a ‘one size fits all’ global policy against illegal logging is unlikely to be effective against all the different subtypes in this category, there is need for increased cooperation between countries (and including private companies) at the global level, seeing as the illicit exploitation of timber is more often than not driven by an international demand of (cheap) wood-based products.

This is particularly relevant in the Romanian (and wider Eastern European) context, where more than half of Europe’s last remaining primeval forests can be found, and which have been steadily getting decimated since the fall of the Iron Curtain. Moreover, illegal logging is one of the few Romanian OC offences which involve significant amounts of political interference, threats and violence (McGrath, 2019b).

Illegal logging groups, described in the media as ‘the forest mafias’ (Matei, 2021), have been accused of killing several forest rangers and attempting to intimidate or kill many more, as well as members of environmental groups (McGrath, 2019b). Furthermore, as this chapter will show, corruption and weak governance within politics, public administration and the forestry sector have also contributed to creating lucrative opportunities to be exploited by clandestine lumberjacks, local politicians, rangers, and multi-national companies. It has been a long-argued idea in the Romanian media that profits from illegal timber exploitation have been used to finance political campaigns (Nedea, 2020), and evidence for this has recently started to emerge (Dorondel, 2016; Covrig, 2020), some even arguing that the activities are controlled and protected by politicians (ibid.).

This is not necessarily surprising, considering that research on environmental crime suggests that ‘[states] and state representatives are often complicit or actively involved in the commission of environmental crime’ (Pemberton, 2016: 67; see also Kramer, 2013). At the same time, although rangers are often the victims of OCGs responsible for illegal logging (Global Witness, 2020; Moldoveanu, 2019), it is not uncommon for some of them to be identified as facilitators of such operations (Ion, 2015). Thus, it could be argued that the real picture of illegal logging in Romania is a complicated one, and I endeavour to use primary interviews as well as secondary data in order to detangle and analyse it in this chapter.

The extent and cost of illegal logging in Romania

As it is the case with most green crimes, the harm caused by illegal logging can be difficult to assess. Oftentimes lacking a 'traditional victim', in the sense of an individual or group of persons who can be easily identified as victims of the offence in question, there is no one to inform the authorities that a crime took place (Pemberton, 2014). Thus, except for cases where environmental organisations or concerned witnesses are able to alert law-enforcement, the likelihood that they would find out about, or indeed investigate, such offences is quite low. In terms of the economic impact of environmental crime, the World Bank (2019) estimates that illegal logging, fishing and the illicit wildlife trade amount to losses of at least USD1-2 trillion per annum. According to Ecojust (2019), the global illegal timber market is valued at around USD30-100 billion annually. Another estimate, by the former UN Environment Executive Director Erik Solheim, indicates that forestry crime 'including corporate crimes and illegal logging' generate losses of up to USD152 billion each year (in Erickson-Davis, 2017). [30]

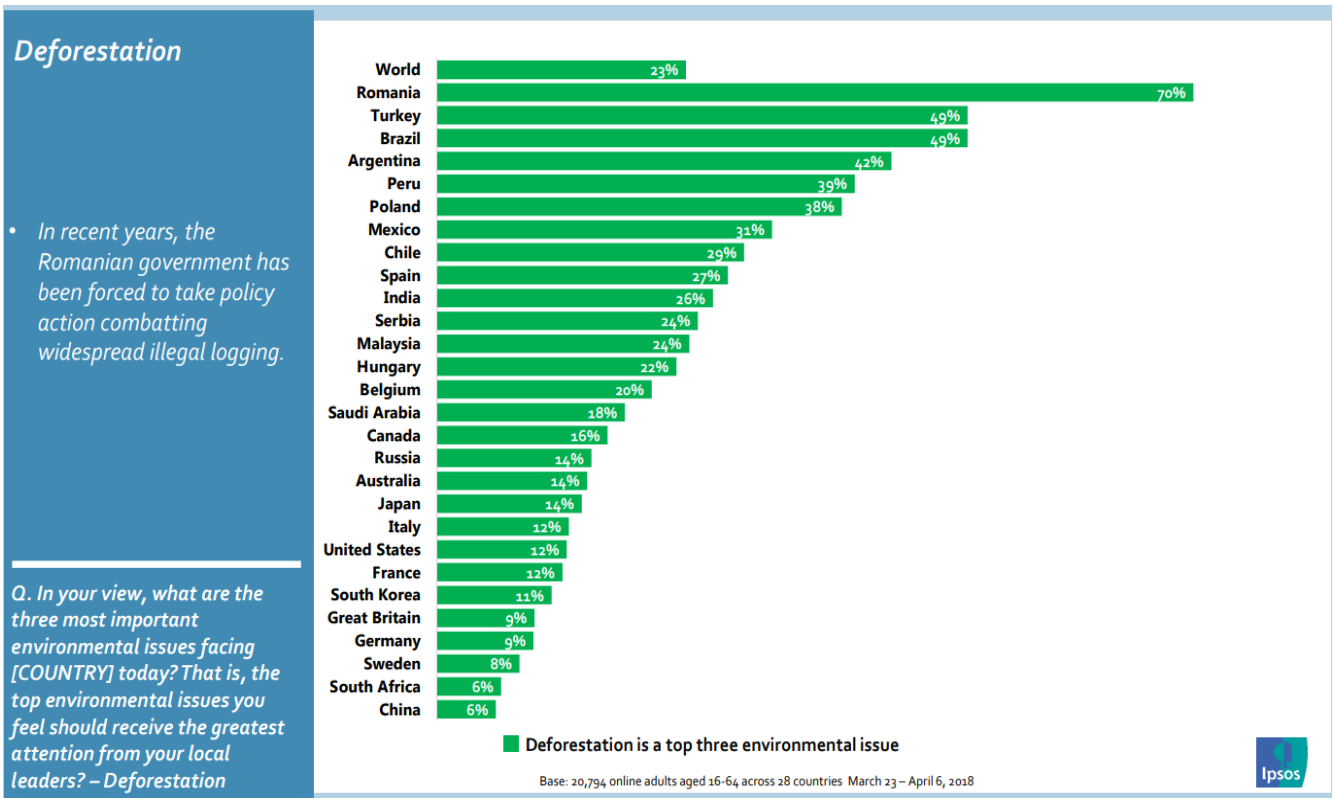
As the Ecojust (2019) report highlights, 'international criminal organisations exploit low-risk, high-reward opportunities to conduct the multibillion-dollar illegal [timber, fish and wildlife] trade that is comparable in economic value and global scope to human and drug trafficking'. This begs the question, then, of why illegal logging and other forms of environmental crime do not receive the same treatment as drug and human trafficking when it comes to preventing, detecting, and combating the phenomena. One possible explanation, as detailed in the previous chapter, is the

30 Some sections of this chapter are based on research carried out in preparation for an MSc assignment on illegal logging.

hierarchy of seriousness which forms part of the social construction of OC. As this section shows, though, illegal logging is sometimes closer to the more stereotypical conceptualisation of OC than drug trafficking or other offences which are more typically associated with OC.

In terms of the impact of illegal logging in Romania, a report by the National Forest Inventory estimates that around one in two trees harvested in Romania are cut down illegally (The Romanian Government, 2015). According to Turp-Balazs (2019), deforestation in Romania occurs at a rate of 6 hectares per hour, meaning that around 20 million cubic metres of wood are lost yearly, the equivalent of EUR1.05 billion (or 0.6 per cent of the country's GDP). As a result of national protests against deforestation and illegal logging in 2016, Romania's president elevated illegal logging to the status of threat to national security, thus employing some of the rhetoric associated with OC and securitisation to the phenomenon of illegal logging (OCCRP, 2016b). This reflects an interesting pattern, indicating that the general public in Romania is concerned about the issue of logging. In fact, as per an IPSOS report (2019), 70% of Romanians ranked deforestation as the single most important environmental threat to the country (see Figure 3 below). Despite all this, as this chapter shows, illegal logging fails to be taken seriously and tackled effectively by law-enforcement.

Figure 3



Countries rating deforestation as the top environmental issue which needs addressing (IPSOS, 2019)

An EIA (Environmental Investigation Agency) investigation into illegal logging (2015) shows that the illegal logging carried out by OCGs in Romania's is connected to the poorly-executed land restitutions during the period of transition from communism, a theme which will be explored in greater detail later in this chapter. Reports by EIA (2015, 2017) and investigations by the Organised Crime and Corruption Reporting Project (OCCRP, 2016a) and the Rise Project (2015) point to the Austrian-based timber multinational Schweighofer-Holzindustrie as the largest beneficiary of the logging carried out on lands which were restituted illegally during that period. According to these reports, a significant percentage of the timber processed by the company comes from '1,000 separate logging companies, many of which have been prosecuted or are currently under investigation for illegal logging' (EIA, 2015: 4).

Schweighofer allegedly liaised with corrupt politicians and businesses and offered bonuses to OC groups for providing the company with illegally-sourced timber (EIA, 2015; Rise Project, 2015; OCCRP, 2016b). As a result of the aforementioned journalistic investigations, an official investigation by the Forest Stewardship Council (2016) was launched, finally deciding that, as a result the company's involvement in illegal logging, Schweighofer would be placed under probation for possible disassociation until February 2017:

> [The] Schweighofer Group has been involved in significant irregularities and illegalities in its timber trade operations in Romania, and in the harvesting of timber from forest land that was purchased under a dubious legal framework. […] The Schweighofer Group has violated the Policy for Association by its ongoing involvement over an extended period of time in illegal logging and the trade of illegal timber. - FSC (2016)

As the Schweighofer example shows, the line between what constitutes legal and illegal logging is not very clear (Green et al., 2007: 94) and allows supposedly legitimate businesses to work with and fund OCGs in the logging industry. The EIA (2015), OCCRP (2016b) and Rise Project (2015) reports suggest that in Romania's case, the extensive logging of illegally-restituted forests by opportunistic groups of criminals and corrupt officials is enabled by an existing 'economy of favours' (Ledeneva, 1998) that is part of Romania's 'communist legacy' (Holmes, 2009b: 282). This makes the country and its forests vulnerable to networks of criminals, corrupt politicians and savvy businessmen, who encourage or actively contribute to the unsustainable exploitation of timber resources in order to increase their profit margins.

The main types of illicit logging (illegal, as well as resulting from corrupt quasi-legal practices) identified in the aforementioned media reports and NGO analyses on Romania include: overlogging (exceeding the rate of logging approved via permits), timber laundering (purchasing timber from questionable or illegal sources and disguising it among legally harvested wood) and the granting of excessive logging permits (through corrupt forestry administrators and/or politicians approving more permits than necessary, for example under ‘safety’ pretences).

Indeed, as the following sections in this chapter show, in Romania there is often an added element of political interference or bureaucratic corruption involved in cases of environmental crime in general, and illegal logging in particular. Linking this back to the hierarchy of seriousness highlighted in the previous chapter, the political involvement and corruption would, in theory, point to a more stereotypical and, by extension, serious type of OC, although as I will show, law-enforcement does not see it as such. In any case, aside from the economic cost of illegal logging, the consequences of these illicit logging activities are far-reaching; the next section will discuss the broader environmental harm caused by the unchecked exploitation of forest lands.

Unbearable consequences: the harms of illegal logging

Figure 4

Arthur, the largest bear in Romania in 2019 (Agent Green, in Gillet, 2021)

It has been long understood by the scientific community that the environmental consequences of illicit and unsustainable logging contribute to climate change, threaten biodiversity and cause the extinction of endangered species (see Dudley et al., 1995). However, the harm caused by illegal logging reaches much further, endangering entire communities by threatening traditional occupations like hunting and small-scale logging, while also posing the potential for exploitation of vulnerable individuals and the use of forced labour (Vandergert and Newell, 2003). Significant levels of unchecked logging often lead to the displacement of communities as a result of the damage to soil integrity, which in turn contributes to floods and food scarcity (Environmental Investigation Agency, 2015; Kramer, 2020). At the same time, illegal logging groups have increasingly been found to use lethal violence and

the threat of violence against forest rangers and other individuals who speak out against their actions (ibid.; Global Witness, 2020, 2021; McGrath, 2019; Moldoveanu, 2019). According to The Silva Forestry Trade Union Federation, ‘six foresters have been killed in recent years while another 650 forest workers were beaten, attacked with axes or knives or even shot at after catching illegal loggers in the act’ (in Jamieson, 2020). One of the murders took place in one of my fieldwork sites, yet as I will show below, it was not brought up by any of my participants.

According to a Greenpeace (2011) report using satellite imagery, approximately 280.000 hectares of forest cover, translating into 3.4% of Romania’s forest cover, was lost between 2000 and 2011 (though some of this will be due to natural causes such as forest fires). The same report indicates that Romania’s forest cover falls significantly below the EU mean and, importantly, under the limits for sustainability, affecting wild habitats and biodiversity (ibid.). While the extent and cost of illegal logging is usually discussed in economic terms, for a more comprehensive understanding of the harm of illegal logging, there needs to be a discussion regarding the loss of plant and animal life as a result of this phenomenon. As Pemberton (2016: 68) puts it, ‘[humans] are mostly only the secondary (or even tertiary) victims of environmental crime. The first casualties are the environment itself and/or non-human animals living in the environment’, not as an expression of harm done to humans but as direct victims themselves (White, 2008).

Certainly, illegal logging is not only a problem of resource theft, but of habitat destruction as well. Around two thirds of Europe’s brown bears live in Romania, as

well as significant populations of lynx, grey wolves, European bison, the critically endangered saiga antelopes, and likely the last population of wild horses in Europe. The habitat destruction and human encroachment on animal territories have led to an increase in the number of encounters between people and large animals, especially bears, which in their quest for food cause accidents, injuries and deaths every year (McGrath, 2019a). This, in turn, is used by the government and hunting authorities to justify what they describe as the ‘population-control culling’ of about 2000 of the brown bears living in Romania. According to official figures there were an estimated 6000 bears in Romania in 2016 (Marica, 2018), although environmental groups place the total around 2000, while hunting associations estimated nearly 10.000 (Pavalasc, 2021). However, environmental organisations have argued that, considering that some individuals are said to be willing to pay over USD15.000 for tracking and killing a bear, there are a lot of vested interests/incentives to increase the annual quotas and approve the hunting of bears which have been flagged as violent/dangerous with greater ease.

A recent case from May 2021 revolved around Prince Emanuel of Liechtenstein, who legally purchased a hunting permit for EUR5000 in order to shoot a female bear which had been reported to cause destruction in a few villages in central Romania. Two environmental organisations have since accused him of killing a male bear called Arthur, the largest bear living in Romania at the time, and likely to have been the largest in Europe. It was reported by Kirby (2021) and others that the Prince deliberately targeted Arthur (as it would have been near impossible for a group of experienced hunters to mistake the large alpha bear for a female) for his trophy value of 592.8 points out of a possible maximum 600, and that he actually paid in excess of

EUR20.000 for the privilege of killing him in a Protected Natural Area in Romania (Gillet, 2021). Unfortunately, this case is not uncommon, as it happens everywhere in the world where special permits are issued for hunting or sourcing animals, timber, or other plants – illegally-obtained wildlife is hidden among legally-sourced specimens, or fake permits are produced in order to bypass inspections. It is a form of laundering the products and proceeds of OC and can be incredibly difficult to regulate; it can only be achieved with full compliance from companies. Cases like the killing of Arthur can be used to mobilise the public into pressuring governments to take action and tackle not only the issue of hunting quotas, but also that of habitat destruction as a result of illegal and excessive logging. Before moving on to the analysis of the socio-legal construction of illegal logging and its seriousness, the following section provides some context on the tumultuous relationship between Romanians and land throughout history.

Love of Land: the background of land ownership in Romania

> He loved the land. [...] The sight of his land stirred his heart so strongly that he felt like dropping to his knees to hug it. It was so much the more beautiful because it belonged to him. [...] He had been a prey to his love of land since his early childhood, always envying the rich and ever nurturing the same ardent resolution: to own much land, whatever may happen! Ever since, he loved the land more than a mother. (Rebreanu, 1920)

Issues of land ownership during and following communist regimes in the post-soviet space are well documented and recognised to have a significant impact on the illegal logging phenomenon (Environmental Investigation Agency, 2015). However, there is comparatively less consideration paid to the Romanian peasants' centuries-old struggle for land, as described in the poem above. As Dorondel (2016: 2) puts it,

‘land and land reform are not merely postsocialist concerns. Land has been the obsession of peasants and political reformers alike since the dawn of modern Romanian statehood’. What follows is a condensed summary of the history of land ownership in Romania, which will provide a useful backdrop for understanding how the current problem of illegal logging is very much linked to this long-standing struggle for land ownership.

Historically, common people in Romania (and its territorial predecessors Wallachia, Moldova and Transylvania) have had a complicated relationship with land ownership. During the Middle Ages, autonomous rural communities which until then employed a mix of private and common ownership between peasants were transformed as land barons locally known as *boieri* [boyars] obtained ownership of the land. Although at first peasants remained relatively autonomous as long as they paid their rent (initially some days of unpaid work on the land, as well as 10% of the overall crop), they were gradually forced into serfdom and even slavery by increasing taxes, invasions, and poverty (Costăchel et al., 1957). Even though serfdom was abolished around the middle of the 18th century in Wallachia and Moldova (Djuvara, 2009), large swathes of land were still owned by boyars and peasants continued working for them and paying them rent, until the 1864 Agricultural Reform (Adăniloaie, 1973). Following this Reform which collectivised land from the boyars and divided it amongst the peasant population, small family farms became the norm. The boyar class gradually disappeared as some of them entered politics, went into business, or lost their wealth.

When the autonomous territories of Moldova and Wallachia were united during the second half of the 19th century to form The United Romanian Principalities of Moldavia and Wallachia, they remained under Ottoman rule until the Russo-Turkish War of 1877-78 which resulted in their independence (Crowe, 1911). It was only in 1918 that Transylvania, up until that point an autonomous province in the Habsburg empire, joined the other two provinces to form the kingdom known as Great Romania. However, as a result of the Second World War, Romania was occupied by the Red Army and the newly-imposed communist republic fell under direct soviet control in 1947. During the communist regime, a series of land and agricultural reforms known as collectivisation and nationalisation took place.

These reforms essentially constituted another land takeover, which saw peasants' fields and orchards voluntarily or coercively entered into cooperatives. These cooperatives, which covered one or more villages depending on size, employed the same peasants working their old lands, except all the product resulting from their work was given to the state. If lucky, the people got to keep just enough to feed their families, although more often than not they had to buy back the food they had grown. For example, my father's side of the family had to rely on a relative working in a factory in a nearby town to buy and bring them bread from a bakery, as they were not able to keep any of the wheat they grew.

Meanwhile, the forests, livestock and machinery were largely confiscated by the state, and lands seized from wealthy families and from the churches were made into national farms or orchards, where school children and factory workers would

sometimes be required to work, especially during harvest months. Firewood and other vital resources were rationed and distributed by the state after calculating each household's allowance depending on the number of family members and other factors.

The fall of the communist regime in 1989 was followed by a new series of land and property reforms[31]. Private property was re-established, and society and the economy underwent significant rapid transformations. As forest lands were gradually denationalised, firewood allowances previously distributed by the state apparatus vanished. Those who (re)gained forest lands began exploiting them extensively, while those remaining without land used whatever was left of state-owned forests. Dorondel (2016) argues that, as a result of considerable restrictions imposed by the communist state on every aspect of their lives, Romanians, like people from other post-soviet nations, came to resent any level of state involvement in matters related to private property:

> 'This is my forest, why does the state regulate how forest should be used when the forest belongs to me?' The new neoliberal language of ownership created false expectations. Private property, from the villagers' point of view, means complete independence from the state; they do not accept external regulations over the way they envision the usage of the forest. (Dorondel, 2016: 69)

Indeed, members of my own family became exasperated at the regulations and hoops they had to jump through to get permissions to build on forest land regained after 1989. They lamented the rules dictating the percentage of land that a building

[31] Law 18/1991

could take up, or that for each fallen tree as a result of construction they had to plant another elsewhere. Part of the frustration was certainly caused by the highly bureaucratised processes, but it has always made me wonder how people who love forests and nature so much that they want to live in it do not see the value of these regulations and restrictions. It would seem that, in an attempt to resist state interference in private ownership, many are wanting to revert to the state of affairs which preceded the communist regime, perhaps also as a result of an attachment engineered as part of pre-soviet nationalism and nostalgia about peasant life. However, they do not take into account the complexities of a post-modern, globalised, consumerist society and issues it creates, including those of resource scarcity and environmental decline, resulting in the long term in a real-life incarnation of the tragedy of the commons (Lloyd, 1832, in Hardin, 1968).

In addition, the process of land restitutions was lengthy and often abused by those with the right connections and enough capital (including members of Romania's royal family) during the transition period (Digi24, 2015), a manifestation of what Ledeneva terms 'the economy of favours' (Ledeneva, 1998). Although the previous owners of the lands could in many cases be identified using collectivisation, tax or other archival records, some ownership was difficult to prove, especially when most families only declared part of their lands in order to avoid higher taxation (which, considering the historical background above, is not surprising).

Fraudulent land restitutions are believed to have taken place at a significant rate, especially with regards to forest lands, thus playing an important role in today's illegal

logging problem. According to a report by Romania's Court of Accounts, approximately 20% of forest land restitutions were fraudulent and 'illegal forest restitutions were carried out mainly with abuses of power by local politicians connected to officials and to people close to their circles' (cited in Chiriac, 2014). In one case, three MPs, together with the head of the Romanian forest administration agency Romsilva were charged by the National Anticorruption Agency with setting up an OCG and facilitating the illegal restitution of 90,000 hectares of forest land to their connections in 2012 (Ciocan, 2014; Digi24, 2014).

As the restitution process took place during the transition, i.e. the legislative and law-enforcement equivalent of the Wild West, the pre-existing power structures and informal exchange networks came into play to ensure the continuation of the socio-economic hierarchy on the new free, capital-led market. The privatisation of lands and forests altered not only the economic landscape in Romania, but the natural one too. What followed was a period of intensive quasi-legal/illicit exploitation of timber from former state-owned lands, causing significant destruction to the natural environment, and having negative effects on wildlife, soil integrity and human settlements, ultimately resulting in the situation described in the previous two sections. In Dorondel's words, 'land reform has changed the social, economic and political relations in the countryside but has also had environmental effects: trees, animals, plants, soils, and rivers have been put under immense pressure, subjected to dramatic changes' (Dorondel, 2016: 7). The following part highlights the legislative context within which illegal logging has taken place since 1989 and relates it to broader conceptualisations of illegal logging, especially in the EU.

Legal framework

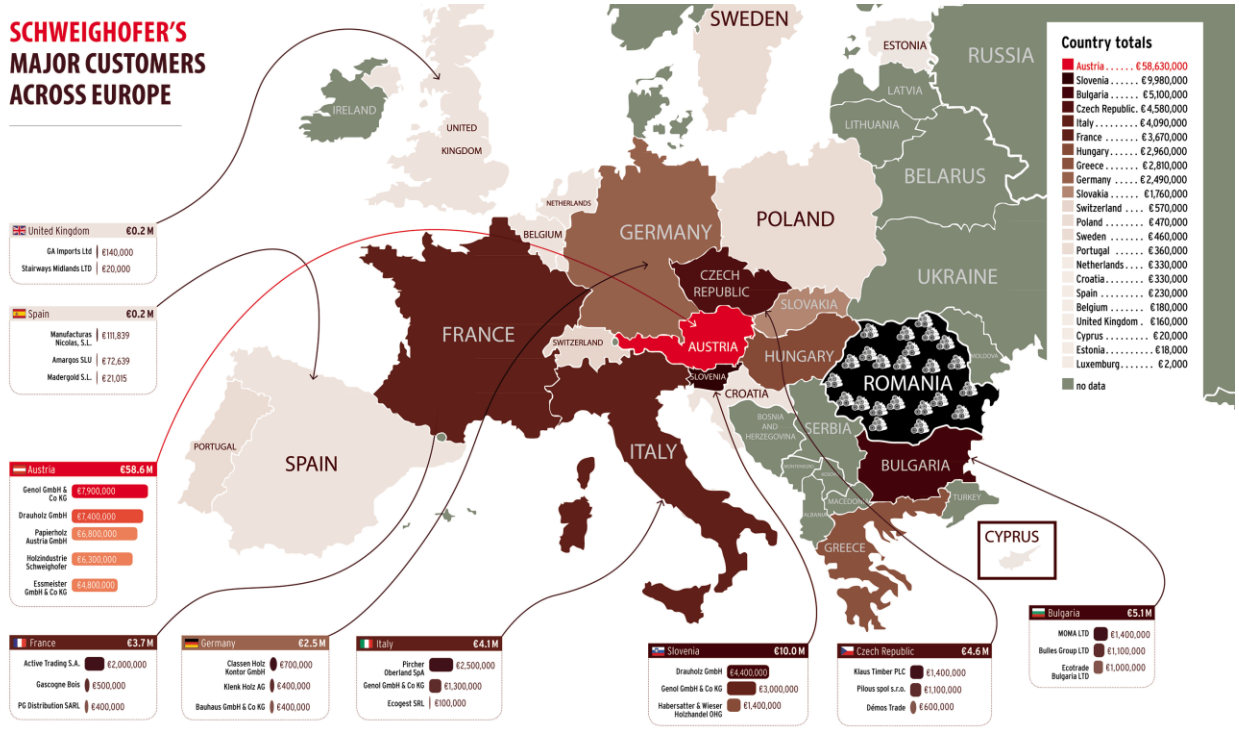
The Romanian legislation against illegal logging has relatively recently been amended, including the introduction of 100 new sanctions, some of which target corrupt forestry administrators, as well as corporations, and most existing penalties were increased (Ultima Ora, 2016, 2017). In fact, as of August 2016, Romania's forestry legislation was compliant with and in some places stricter than the European Union Timber Regulation (EUTR) (Client Earth, 2017). For example, illegally logging a surface larger than one hectare has been legally redefined as a threat to national security. It is worth mentioning, however, that EUTR applies exclusively to timber imported into the EU from other countries outside the union and introduces responsibilities to ensure the legality of the timber at the first port of contact with the EU. This means that the due diligence requirements of EUTR do not apply to wood sourced in Romania or other EU member states. In any case, the legislation change seems to be little more than an appeasement gesture following public outcry regarding the issue, rather than it being about actually controlling illegal logging. In fact, as the next section shows, the forestry administration sector is a particularly lucrative one in terms of kickbacks and bribes which end up in party coffers, so there is little political incentive for reform aside from public pressure.

Despite the amendments to the legislation, the European Commission felt that there was no substantive change to how Romania addresses the illegal logging problem and, as such, has threatened legal sanctions in response to Romania's failure to tackle illegal logging effectively and protect 'Europe's largest unspoiled forests' (Client Earth, 2020; Radio Free Europe, 2020). Perhaps now that that it has become a priority for Europe to preserve *its* natural environment, it will become more of a

national priority for Romania to tackle the practice of illegal logging, in a sense replicating the same phenomenon of external pressure shaping the policy and strategy on OC in Romania. After all, in a similar vein to the anti-OC strategies resulting from the alien conspiracy theory, the expectation is that Romania carries out all the checks and puts in place the mechanisms to prevent illegally-sourced timber from entering the European market; this serves to absolve importing countries of any form of blame, as if Austrian, Swedish and other European companies were not significant actors in this illicit market.

This perspective, similar to the policies against drug trafficking and other stereotypical OC offences, focuses all attention on the production of the illicit goods and places responsibility squarely with the country where production takes place to combat the problem. It therefore ignores the demand from wealthier countries for cheaply-sourced and processed wood, which is in reality the driving force behind the illegal and harmful logging activities. For example, the timber products resulting from Schweighoffer's processing of illegally-obtained logs are alleged to have reached almost all of the countries in the EU, as well as Japan and many others beyond (see Figure 5 below showing a map of the EU countries which import Schweighofer timber products – Environmental Investigation Agency, 2017). This poses some important issues, since, for example, companies like Baumax who purchased and sold Schweighoffer products were able to offer assurances to customers that their timber is sourced sustainably, without doing their due diligence, because they were not legally required to conduct their own checks, and instead relied on the Schweighoffer certification paperwork.

Figure 5



Map of the flow of Schweighofer's timber products in Europe (from Environmental Investigation Agency, 2017)

All in all, it appears that the legislative tools for combatting illegal logging in Romania are present, and that there is at least surface-level political will to tackle the phenomenon, as well as pressure to do so, both from the public and from the EU. Why, then, does illegal logging remain pervasive, and why is there a limited response from law-enforcement? The next two sections look at the systemic corruption enabling illegal logging, and at the conceptualisation of illegal logging in the law-enforcement and media discourse, in order to attempt to theorise why OC law-enforcement does not respond effectively to the issue of illegal logging.

Corruption, clientelism and weak governance of forestry sector

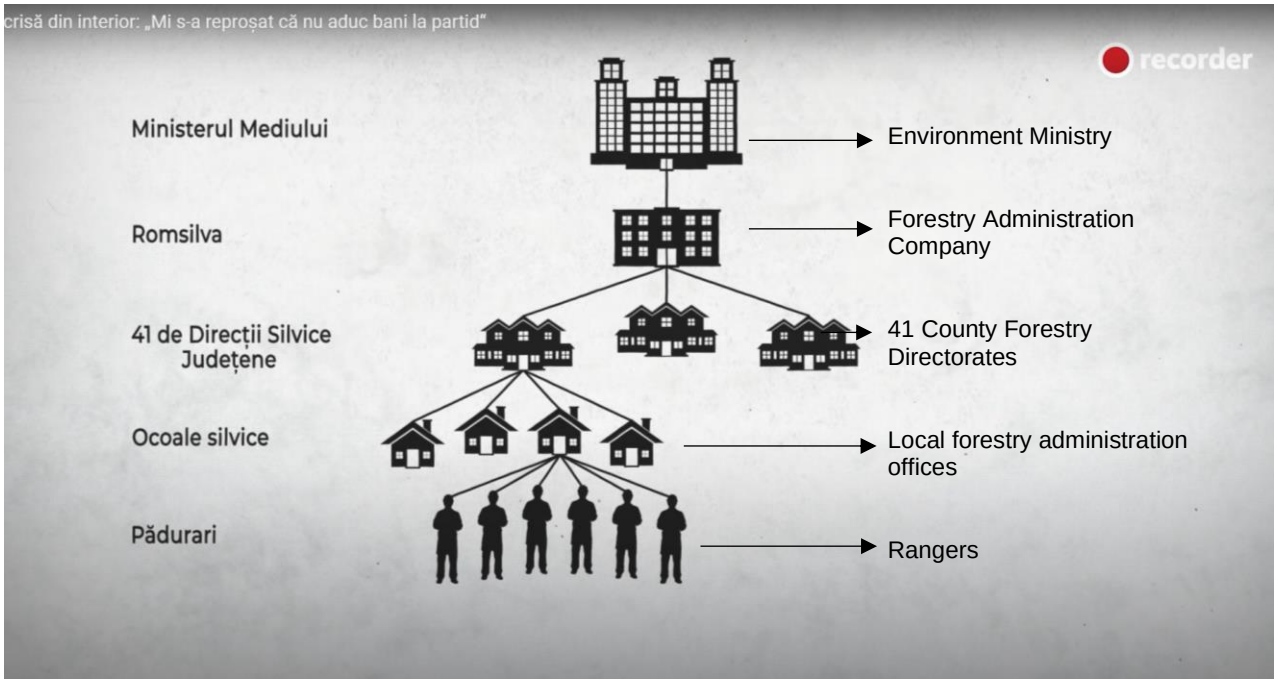
A recent interview with head of the Mureș County Forestry Directorate and former State Secretary under the Minister for Environment, Ilie Covrig, has brought to light some sought-after evidence of the level of political involvement in illegal logging (in Nedea, 2020). He explains that although appointments within the forestry administration sector are supposed to take place meritocratically, oftentimes there is nepotism and cronyism involved in making the appointments; people are reshuffled so that those more closely aligned to leading political interests are positioned strategically in the forestry sector. A similar reality was uncovered by forestry engineer Mihail Hanzu, who was pressured to quit his job in the local forestry administration after refusing to sign off on documentation he argued was fraudulent and illegal (Ghiduc, 2019). With him gone, his temporary replacement would have been able to sign the papers the same day.

Covrig explains that the same bureaucratic system that is supposed to be protecting the forests is instead used to exploit them for corporate profit and political gain; according to him, logging companies pay bribes to rangers to turn a blind eye to excessive logging or the laundering of timber obtained from logging OCGs (Nedea, 2020). The bribes then move upwards through the chain of command, all the way to the relevant minister and their party. Covrig explains that it is for this reason that the Ministry for Environment is a very coveted position in the case of a government coalition (which are common in Romania's multi-party system), that the money is then used as party expenditure or funnelled into election campaigns. As Figures 6 and 7 below show, the structure and organisation he describes is very hierarchal which, coupled with the violence, threats and political involvement, have pushed

many media commentators to declare the existence of a forest mafia (for example, Ghiduc, 2019; Miclovan, 2021; Nedea, 2020; R.C., 2021; Stoica, 2021).

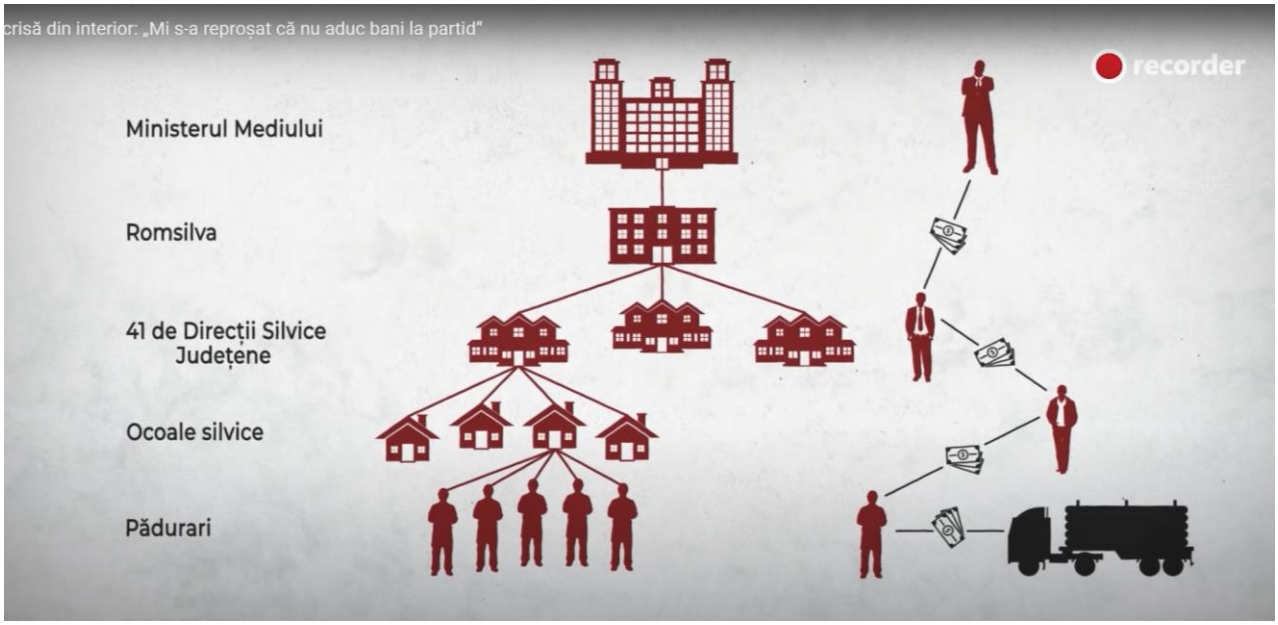
According to Covrig and phone recordings he took while talking to various individuals, he was pressured by two different governments (one left-wing, one centrist) to leave his appointment, because he was not contributing to the party coffers. He was initially sent to Bucharest as State Secretary, thus enabling someone more aligned to the party line to replace him, although this was temporary. On his return to Mureș he received offers, advice from multiple sources, then threats and intimidation, to convince him to leave his position as head of the Directorate. After several ‘surprise’ inspections by supposedly unbiased governmental inspectors, he was charged with misconduct in an attempt to relieve him of his position, although he is fighting that charge. On the audio recordings, political figures and members of the Forestry Administration can be heard saying ‘It’s unpleasant, I know’, ‘you didn’t accept the offer, now there isn’t an offer anymore’, ‘It is what it is, you and I can’t do anything about it’, ‘I have no choice, they are pressuring me’, suggesting that this is not an isolated case, that it is common for people to fall in line and move the bribes up the chain, or leave and not speak about it. Covrig also mentions the corruption and enormous bribes involved in the granting of bear-hunting special permits.

Figure 6



Screengrab from Recorder interview describing the structure of the forestry administration apparatus. Starting at the bottom and moving upwards, the text on the image says: Rangers; Local forestry administration offices; 41 County Forestry Directorates; Forestry Administration Company; Environment Ministry (Nedea, 2020)

Figure 7



Screengrab from Recorder interview, indicating the flow of bribes through the forestry administration apparatus from loggers/companies, via corrupt rangers, administrators, and bureaucrats and finally reaching the Environment Ministry, from where they were allegedly diverted into party campaign financing (Nedea, 2020)

All in all, it is a very revelatory interview which has created renewed interest in the topic of illegal logging. As a result, some other developments took place: the National Anti-Corruption Agency (DNA) has opened a large investigation into illegal logging in Mureș county[32]; a portal through which activists and citizens can check whether a timber truck they come across has the correct permits and follows the assigned route through the country was relaunched, albeit with some issues, and it has been proposed that Gendarmes (Romanian military police) are empowered to conduct checks on timber trucks. As the issue is becoming increasingly important both nationally, and at the European level, it begs the question why this has not translated into tasking the anti-OC police with tackling it.

The involvement of the political in the illegal logging market is further evidenced by Hanzu, the engineer who was forced to quit his job with the forestry administration. He recorded a conversation with the mayor of the town he was working in, in which the mayor was telling him off for ‘not becoming a team player and sticking out like a sore thumb from the start’ and failing to understand why Hanzu ‘just couldn’t look away, pretend not to see’ that people were filling out fraudulent paperwork right in front of him. When Hanzu explained that he did not want to become an accomplice to

[32] Fostul senator USR Mihai Goțiu anunță că a fost chemat la DNA pentru a depune mărturie într-un dosar uriaș care vizează tăierile ilegale de păduri din județul Mureș https://www.g4media.ro/fostul-senator-usr-mihai-gotiu-anunta-ca-a-fost-chemat-la-dna-pentru-a-depune-marturie-intr-un-dosar-urias-care-vizeaza-taierile-ilegale-de-paduri-din-judetul-mures.html

an organised crime group, his concerns were dismissed and he was told it would be better to ‘part ways with the forestry administration’ (Deleanu, 2016; Ghiduc, 2019).

Covrig and Hanzu’s accounts are supported by ethnographic research carried out by Dorondel (2016) in a Romanian logging village. His findings show that within every branch of the local state apparatus, there were strategically-positioned individuals who stood to benefit from the illegal logging industry: from the people in the lowlands buying cheaper firewood, to the ranger who showed loggers which privately-owned lands they could exploit under the cover of night, or the chief of police who would call the loggers and alert them if villagers were on their way to catching them in the act, the bureaucrats who swindled people who had recently received their forests back into selling them for derisory sums of money, in order to then sell them on to logging companies for ten times more money, to the forestry administrators who sold fraudulent timber transportation certificates to loggers, and finally logging companies who bought the lower-priced timber and made immense profits off of it. The only real losers, aside from the environment, of course, were the land-owners who, if lucky, managed to clear their own forest lands before the loggers. Dorondel argues that, although the involvement of high-level politicians in the illegal logging industry is highly significant, it is the local and lower-level politicians and administrators who enable the corruption and continuation of the illegal activities. As such, the focus of efforts to combat illegal logging should be at the local level:

> Although local power cannot be acquired without links to regional and national state officials, it must be analysed within the local context. The consequences of *local* power relations are deforestation and a dramatic change in the landscape [emphasis added] [...] the dynamics of these [illegal logging] relations show that the locus of power is at local level, rather than national level’ (Dorondel, 2016: 65).

As the next section shows, however, policing illegal logging comes with its own challenges, due at least in part to the perceptions and conceptualisation of illegal logging within the anti-OC policing agencies, and the existence of a hierarchy of seriousness with regards to OC.

Police perspectives on illegal logging

> If a tree falls in a forest and no one is around to hear it, does it make a sound?

My interviewees had very little to say about illegal logging, aside from two police officers, Dacian and Razvan, who seemed passionate about the topic as individuals, and whose views I will discuss below. Generally, the topic never came up without me asking about it (unlike drug trafficking and illegal migration), and when I did bring it up it was usually dismissed relatively quickly. While it is possible that the participants wanted to talk to me about what they thought I would find exciting (drugs and human trafficking, mainly), it seemed like they did not see illegal logging as particularly important or a priority to divert resources to. When asked, they explained that it was not within their area of competence, and that unless there was corruption or money laundering involved, they would not have jurisdiction for illegal logging cases, meaning the threshold for surveillance and investigation was much higher than, for example, a drug-related crime. When I asked Razvan, the head of one of the anti-OC brigades, whether they had dealt with any cases of illegal logging, he responded as follows:

> [Illegal] logging is not within our jurisdiction... the Ukrainians have specialised agencies to deal with it, we as a country have completely ignored the phenomenon. But do you know why? Who was behind vast illegal logging operations? Politicians... If you look at central Transylvania, it was UDMR[33]. In some other counties it was PSD[34]. In our area PNL[35] was behind it. Now that, that really is organised crime. But we haven't been looking at it as an organised crime phenomenon, and now our forests are gone. We left the enforcement of it to public order police officers, at the local level they made so much money from it! (Razvan, p. 12)

Razvan emphasised the link between politics and illegal logging, and he added that a majority of the illegal exploitations took place as a result of fraudulent land restitutions and sales during the transition period before anyone realised what was happening. His point about local police becoming enmeshed in illegal logging OCGs is also supported by Dorondel's ethnographic research (2016), which shows that law-enforcement is often criminally-involved where extensive illegal logging operations take place. In one example, he describes accompanying a villager with the local police officer to a site where the villager had heard loggers were felling trees on his land. When they got to the location, they could see all the tracks and evidence the loggers had indeed been there but left in a rush. When heading back to the village, the villager explains that the only way they could have known to clear out was if the police chief let them know when he made the initial report. He explains later that police officers, the local chief and his regional superior all receive kickbacks from illegal loggers, in the form of bribes and good quality timber. The local police chief's father even built a sawmill and ran a successful business selling 'good quality timber' to villagers who then used his mill to process the timber.

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[33] The Democratic Alliance of Hungarians– a minority political party in Romania
[34] The Social Democrat Party – one of the major political parties in Romania
[35] The National Liberal Party – one of the major political parties in Romania

Dacian, who worked as an undercover officer in anti-drug trafficking operations, agreed that a lot of illegal logging would fit the legal definition of OC, and that it was done in an OCG context (in other words, it fit the socio-legal construction of OC). He also had similar views regarding the involvement of political actors in the industry and argued that the logging companies – whether legal or illegal – provided much needed jobs in isolated mountainous areas, so they generally have support from the local communities, until the latter realise the long-term impact illegal logging causes.

> They [logging companies/groups] create jobs. And the people are grateful, you know? They don't have to commute for hours, or maybe they can continue the work they've done their whole lives, it's not like you can go into agriculture in the Borsa region[36] for example. What do you do then, to survive? So they help sustain the community, the local economy. And the leaders of these illegal organisations network with politicians and bureaucrats, so they build this image of respectable figure in the community, people trust them! (Dacian, p. 18-19)

Dacian's description of how these organisations seek out political connections and garner support from their local communities is similar to the analyses of OCGs emerging in a context of weak governance (see Fijnaut, 2014; Standing, 2010; Varese, 2011). It describes a type of organisation that is closer to the stereotypical understanding of OC than any drug trafficking groups in Romania, and yet in terms of crime-fighting priorities, it barely gets mentioned. Razvan and Dacian's perspectives stood out when compared to the other 25 participants, who generally understated the significance of the illegal logging phenomenon. 'Yeah, [illegal logging] happens in the mountains up North, I heard they attacked some rangers as well. The police deal with

[36] A mountainous region in Transylvania which is not fit for growing most crops.

that, it's not really our jurisdiction', said Vasile, the head of an anti-OC brigade in our interview. Other participants, when asked about illegal deforestation, mentioned logging by Roma clans [they used the slur g*psy] in the southern region of Romania, or 'the Northeners', in a way distancing themselves from them as if to say it was not their problem. This represents yet another incarnation of the alien conspiracy theory, whereby the 'others', being different, poor and generally seen as inferior, are used as scapegoats, although the intent in this case appears to be denial and ignorance, more than creating moral panics. As studies by Dorondel and others (Chiburțe, 2008; Măntescu and Vasile, 2009; Vasile, 2009) show, Roma groups are used to carry out the physical labour and take the blame for it, while bureaucrats and politicians are organising the operations and evade any scrutiny:

> [...] throughout Romania, it is local state officers and bureaucrats who actually profit economically from the common forests while the commoners get little benefit, if any. The story is the same [...]: patron‑client relations are key to illegal logging practices at local level; local state officials fiercely exploit the forest, whether private or common, while collusion between local state bureaucrats and central state officials is the main force behind illegal forest exploitation. (Dorondel, 2016: 88)

This could be an example of the importation of the American model of OC, whereby 'good society', in other words officials, law-enforcement and people in other respectable positions, could only be accused of committing OC in extraordinary cases, as that is usually the realm of the lower classes, or the morally inferior. It could, however, also be a relic of the systemic nepotism and favour economy which emerged during communism in Romania, and from which the Roma are generally excluded.

It was obvious that, while they did recognise illegal logging was a problem, they had not even considered the possibility of investigating cases related to it, nor did they mention the existence of OCGs. This was despite there having been recent public protests against illegal deforestation in Romania, as well as statements from public officials regarding the seriousness of the phenomenon, which makes the other officers' and prosecutors' comparative lack of concern even more interesting. Unfortunately, as this pattern did not emerge to me until quite late during the data-collection phase, I was not able to question this apparent lack of interest in illegal logging with my participants as much as I would have liked, so the analysis in this section is in large part based on the latter interviews.

In any case, this general lack of interest in the topic suggests that there is indeed a *hierarchy of seriousness* when it comes to OC in Romania: mainstream, stereotypical OC, such as drug trafficking, is seen as more serious and dangerous than crimes like illegal logging, a phenomenon which has been going on for much longer (at least in the case of Romania), is isolated to certain areas, and therefore is seen almost as an regional cultural pattern (Karstedt, 2003) rather than great a threat. This is despite there being significant evidence of violence and intimidation at the hands of illegal logging groups (McGrath, 2019b), considerably more than in the majority of stereotypical OC in Romania. According to Global Witness (2019), just in 2019 there were two killings of forest rangers in Romania. In the same year, many others were shot, stabbed, beaten, cut and maimed with axes and saws, received death threats and had their homes, cars and workplaces vandalised (Moldoveanu, 2019). According to the Silva Forestry Trade Union Federation, between 2014 and 2019, 6 rangers lost their lives and over 650, engineers and technical staff were violently

attacked or threatened (Ghilas, 2019). In addition to this, NGO representatives, journalists and even a Netflix filming crew encountered hostility and violence at the hands of loggers illegally exploiting Romania's forests (Romania Insider, 2019). In some cases, the illegal logging groups who carried out the attacks included rangers or forestry engineers – for example, when two journalists and a documentary filmmaker were beaten by over 20 men armed with pitchforks and crowbars in November of this year (Business and Human Rights Resource Centre, 2021).

Aside from Dacian and Razvan, my respondents did not emphasise the connections between illegal deforestation and corruption, fraud (other than regarding restitutions) or corporate crime which were uncovered by the reports mentioned earlier in this chapter. It could be argued, in a sense, that they were using the perceived non-seriousness of the illegal logging problem as a neutralisation technique (Sykes and Matza, 1957), to justify not considering or addressing it. Another issue to consider is that illegal timber exploitations are usually located in more isolated, mountainous regions. Forest rangers are usually the ones to identify the illicit operations (sometimes notified by passers-by). They then report them to the local police, who usually deal with it locally as much as they are able to – when they are not involved in the operations themselves, as explained above. The other law-enforcement authority in mountain areas is the Mountain branch of the Romanian Gendarmerie (Jandarmerie), a military police structure which is completely removed from the national police (which the anti-OC teams are a part of). It is likely that a case of illegal logging would be dealt with by the local police and not be referred further. In a way, through the creation of specialist anti-OC units, it is as if they were granted dominion

over everything OC-related in Romania and thus, if they are not the ones dealing with logging, it must not be ‘organised enough’ or ‘serious enough’.

According to Sergi (2017), the notion of seriousness is conceptualised as being related to an organisation’s perceived dangerousness, or its ability to corrupt and infiltrate politics and legitimate businesses. It is clear from the data I have presented in this chapter that both corruption and violence are involved in the illegal logging phenomenon in Romania, to a significantly greater extent than in the case of drug trafficking, for example. However, it is also obvious that illegal logging is not perceived as serious enough by anti-OC law-enforcement. This further supports the idea that there is a hierarchy of seriousness of OC which is based on preconceived views and stereotypes about OC.

As the dominant global construction of OC is based on the American/Western understanding of the phenomenon, the hierarchy of seriousness is based on the policing priorities resulting from that understanding. In other words, due to the fact that certain crimes, like drug trafficking, racketeering or trafficking in persons, are so central to the Western conceptualisation of OC that they become the stereotype of OC or, to put it in Christie’s (1986) language, they are ‘the ideal organised crimes’. In essence, most drug trafficking offences will be easily recognised by law-enforcement, as well as laypeople, as OC, because it perfectly fits the stereotype of OC. Crimes like illegal logging, art theft and other less ‘mainstream’ offences deviate from the ‘ideal OC’ in various ways – perhaps they are considered victimless, or less dangerous, or less costly – and as such they are not as readily recognised as OC.

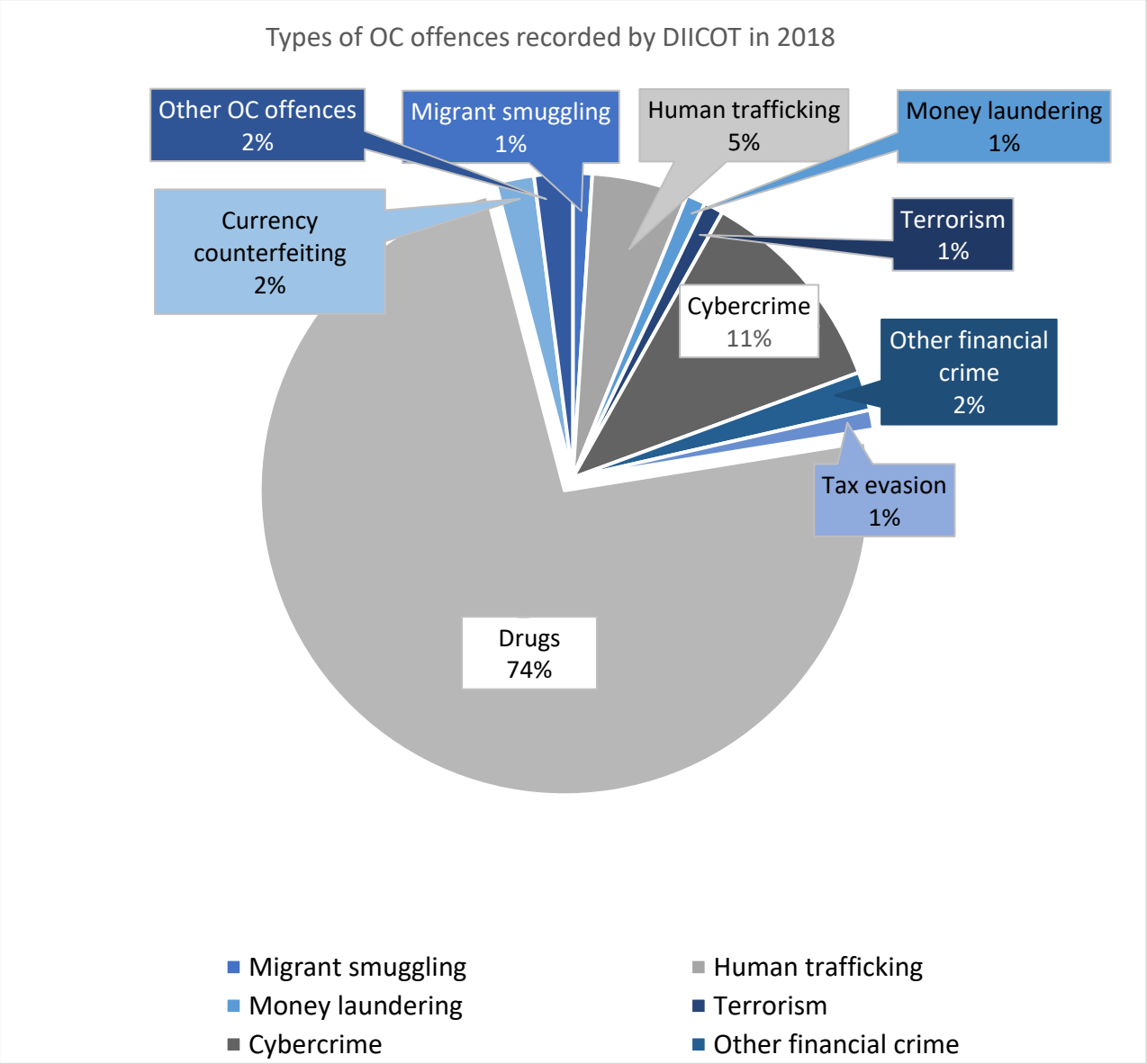
The question remains, however, why this hierarchy of seriousness does not reflect the actual seriousness of OC in any given territory. In the case of Romania, illegal logging has been taking place for a long time – though perhaps on a smaller scale. Then, during the early transition years, the market essentially exploded as a result of questionable or downright illegal land restitutions. The links between illegal logging groups and politics has long been documented, albeit much more comprehensively recently. Had Romania created specialised law-enforcement agencies to deal with criminal associations, perhaps illegal logging would have become one of their priorities. However, with the importation of the concept of OC and relevant legislation and policies in the early 2000s, the stereotypical, American-inspired social construction of OC was adopted as well. Through the process of policy and knowledge transfer, the conceptualisation of the seriousness of crime in Romania was also reshaped, to better align with EU and American anti-OC priorities.

The hierarchy of seriousness is essentially enshrined in the legislation establishing the role of the anti-OC prosecutorial body, DIICOT. As explained in a previous chapter, the law dictates that anti-OC prosecutors, together with their assigned investigative officers, are responsible for tackling offences pertaining to a list of crime categories, most of which could be classified as typical OC offences: drug trafficking, money laundering, illegal migration, contraband and smuggling of goods (over a monetary threshold), arms trafficking, dealing in radioactive materials, terrorism, financial crimes and some other offences against the state. This provides an alternative construction of OC to that of the main piece of Romanian anti-OC

legislation, by defining the specific areas of illegal activity which are to be understood as OC. This activity-based construction of OC, coupled with the outside pressure for Romanian anti-OC enforcement to prioritise tackling drug and human trafficking, money laundering and cybercrime as a way of securing EU borders and disrupting some of the drug and migrant transit routes towards Western Europe, have resulted in the vast majority of resources (human, financial and otherwise) being assigned to tackling these crimes.

As the graph in Figure 8 below indicates, almost three quarters of the cases recorded by the DIICOT prosecution offices in 2018 were drug-related; a further 11% of them were to do with cybercrime, 6% with human trafficking and migrant smuggling, 4% were financial crimes (excluding the 2% of cases relating to counterfeit currency) and 2% were 'other OC offences' (DIICOT, 2019: 14). The figures for cleared and outstanding cases were similar, with slight differences for drugs and cybercrime (ibid., 15-17). At the same time, as discussed in the legislation chapter, the anti-OC prosecutors and the specialised investigative officers are responsible for *all* cases of drug trafficking, human trafficking, cybercrime, money laundering and other offences which are listed under the law which establishes the DIICOT areas of competence (O.U.G. 78/2016), regardless of their complexity or perceived dangerousness – in other words, regardless of whether the offence was carried out by an OCG or not.

Figure 8



Graph showing % breakdown by type of OC new cases recorded by DIICOT in 2018 (adapted from DIICOT, 2019: 14)

This means that anti-OC prosecutors and police officers in Romania are responsible for investigating, arresting and prosecuting low-level drug dealers, but do not deal with what is described by some logging industry insiders as organised criminal groups with close connections to large businesses and politics, who use violence and the threat of violence, bribery and racketeering to illegally exploit Romania's virgin forests for significant profit margins. This is a clear indication that the socio-legal

conceptualisation of OC in Romania is not a reflection of the actual Romanian organised crime phenomenon, and that it is based on dominant American and Western-European understandings of OC. The resulting legislation and strategies of combatting the phenomenon contribute to the creation of a hierarchy of seriousness of OC, by reinforcing stereotypical OC, like drugs and human trafficking, as 'ideal OC', to the detriment of other crimes, such as illegal logging, which in turn receive significantly less attention and resources.

The media construction of illegal logging

In contrast to the limited law-enforcement interest, the media discourse on illegal logging portrays the phenomenon as being very serious, as evidenced by the alarmist tone and the use of the term 'mafia' to describe the OCGs, in articles titled: *'*Anticorruption Directorate opens investigation into the Forest Mafia' (Matei, 2021); 'Romanian forest mafia, under scrutiny of the European Parliament' (Miclovan, 2021); 'Environmental activist and two journalists violently assaulted by forest mafia armed with pitchforks and axes' (Bogdan, 2021); 'The Forest Mafia: I was reproached for not bringing in enough party money' (Nedea, 2020); 'Forest Mafia discovered by the Court of Accounts; how Romania's green gold ended up in the hands of imposters' (Borcea, 2016).

The media partly rhetoric resembles that of the environmental organisations like Greenpeace Romania and the Environmental Investigation Agency, although it has a much stronger focus on describing acts of violence and sensationalising cases of corruption or corporate greed. In general, the Romanian media is quick to use the

mafia label to denote the perceived seriousness of a crime. A media study by Mateescu indicates that, according to the Romanian press, there were at least 50 different sectors which mafias are active in:

> A brief search through two of the biggest Romanian dailies revealed that between 1999 and 2001, the following mafia networks had taken the field: The mafia of alcohol, of cars, of cigarettes, Gypsy, yellow, of construction work, Russian, of cab drivers, of agricultural coupons, of illegal VAT reimbursements, of coffee, Ukrainian, of cereals, in soccer, of international adoptions, Chinese, political-financial, of garbage bins, of pirated phones, of black alcohol, of mining, of the fuel M, from the 6th sector, of drugs, of electricity, parliamentary, that dominates the Police and the Judiciary system, of false policeman badges, of beggars, of thieves, Bessarabian, of wheat, of luxury cars, Nigerian, Polish, of visas, political, of driving permits, of chemical fertilizers, from the Romanian Soccer Federation, of public spaces (open markets, second hand fairs), from the 4th sector administration, of jewellery traffickers, of sugar, of empty bottles, Arab, of cemeteries, of tutoring, white-collar, Mexican, French, from the stockmarket, of flowers, of vegetables and fruits, Albanian, of organized crime, of soccer club leaders, of the Securitate, of customs receipts, of chewing gum, musical, of tombs, of clandestine luggage porters, of pensioners, and of the Orthodox Church. (Mateescu, 2002: 7)

Thus, on one hand, investigative journalism detailed earlier in this chapter (Nedea, 2020; OCCRP, 2016a; Rise Project, 2015) has been able to uncover important links between illegal logging groups and multinational timber-processing companies, local administration and the top echelons of the main Romanian political parties. On the other hand, more mainstream media channels used these findings in order to glamorise the phenomenon, extensively covering cases in which there are political figures involved, or violence, or public outrage. Any nuance in discourse is therefore lost, in a bid to attract more media consumers who buy into the conspiracy and myth of the mafia. In reality, the use of mafia terminology is inaccurate at best, and dangerous at worst.

As Sergi (2017) explains, mafia-type OC involves a much higher level of political-criminal interplay, what she refers to as connivance, compared to most other OC. None of the Romanian crime phenomena could be argued to replicate the organisation, social embeddedness, and cultural behaviour specific to mafia organisations. However, due to the early American conceptualisation of OC as *the* Italian Mafia, adopted both in Hollywood depictions of OC as well as in American foreign policy strategies, the Mafia has become the archetype of OC. It represents the closest approximation of the abstract concept of OC, and is the equivalent of Christie's 'ideal victim' in his hierarchy of victimisation (Christie, 1986). As such, with mafia being at the top of the hierarchy of seriousness of OC, the media use of mafia terminology to refer to illegal logging has a clear discursive role of ascribing the highest level of seriousness and dangerousness to the phenomenon of illegal logging.

Essentially, by highlighting stories of violence, corrupt political connections and corporate conspiracies, and using the term 'mafia' to describe the OCGs, the media is able to place illegal logging towards the top of the seriousness hierarchy of OC. Comparatively, the law-enforcement social construction of OC does not even include offences related to logging or other environmental harms, seemingly as a result of the importation of a Western conceptualisation of OC which focuses on the crime threats that the West is most concerned about. This highlights the differences between the police and the media social conceptualisation of both OC in general and illegal logging more specifically.

Conclusions

To conclude, the issue of illegal logging in Romania has over the last few years been receiving increased attention, both from the media and environmental organisations, and from the EU. Illegal logging generally has wide-reaching consequences, not just in terms of its financial cost, but also in relation to the degradation of natural environments, human communities and animal habitats. Romania's communist past has left behind certain particularities which enabled the illegal deforestation phenomenon to thrive post-1989. It has arguably also contributed to the emergence of systemic corruption in the forestry system, which in turn contributes to the continuation of illegal timber exploitations.

Despite significant evidence pointing to high levels of violence in the logging sector, as well as the insider testimonies about the links with corrupt politicians, bureaucrats and businesses, OC police officers and prosecutors do not regard illegal logging as a form of OC. This appears to be due to the imported Western conceptualisation of OC as primarily drug trafficking, human trafficking, money laundering and cybercrime, coupled with the inconsistencies between the legal definition of OC (law in the books) and the law-enforcement, prosecution, and courts' interpretation of it in legal practice (law in action). In addition to this, the law establishing the area of activity for OC prosecutors further confuses matters, by listing a specific set of offences which DIICOT prosecutors must investigate, rather than reflecting the law on OC crime and establishing jurisdiction based on the structure characteristic. As a result, the perception of CJS practitioners seems to be that illegal logging is not a form of OC,

and that it is best addressed by the local police, despite evidence of the involvement of local authorities in the phenomenon, and despite the fact that the phenomenon seems more organised, more violent and more linked to corruption than drug trafficking, for example. In other words, because illegal logging is an issue that primarily affects Romania (and other countries in CEE) and does not fit the Western conceptualisation of OC, anti-OC resources in Romania are focused on the latter. As such, the case study of illegal logging in Romania provides some interesting insight into the consequences of policy transfer in the post-soviet context.

Furthermore, while it is clear that the tackling of illegal logging in Romania needs improve significantly, the exclusive focus on the production of illegal timber furthers a narrative which absolves other actors involved in the activity of any responsibility, affording companies and consumers the ability to deny knowledge of any wrongdoing. Illegal logging will not be tackled effectively by solely targeting those holding the axes and chopping down the trees, but by implementing effective due diligence checks throughout the timber processing sector, and introducing sanctions proportional to the harm, in the broader sense of the word, caused by the companies which are involved in illegally harvesting wood, as well as the bureaucrats and politicians who enable them.

One of the most salient points that can be derived from this chapter is that the local police is left to deal with one of the most violent, corrupt and complex illicit industries in Romania, while highly specialised and well-resourced agencies, created especially for tackling complex serious crimes, are prioritising other countries' crime problems.

Arguably, due to the high levels of what appears to be systemic corruption, there is a lack of political will to challenge the stereotypes underpinning the hierarchy of seriousness of OC. As a result, political elites, multinational companies and bureaucrats can act with impunity and profit from the destruction of some of Europe's last primeval forests, while anti-OC police is chasing low-level cannabis dealers.

Chapter 7. Conclusion

Thesis summary and key contributions

To summarise, this study set out to analyse the socio-legal construction of organised crime (OC) in Romania, understand how anti-OC practices are implemented by the relevant agencies and examine the perceptions of CJ actors regarding OC, in order to consider how they relate to official legislation and actual OC policing in Romania. The end goal was to draw out the effects of CJ policy transference and the usefulness of international, regional, and national policies against OC and other transnational threats. The resulting data has enabled me to show how the process of policy transference in the case of OC policy has impacted the socio-legal conceptualisation of OC in Romania, and what the consequences are.

As indicated in the literature chapter, the notion of OC, having emerged in the context of moral panics regarding vice in the US in the 20th century, has discriminatory and exclusionary connotations and has historically been used to criminalise minorities. While these connotations of the concept have softened over time, there are still elements of what came to be known as the alien conspiracy theory still embedded in current dominant conceptualisation of OC. Through various tools of foreign policy, including waging war on drugs, the US has pushed its own understanding and construction of OC, managing, for the most part, to position it as the dominant perspective on OC.

Considering that the EU became interested in further increasing the integration and securitisation of the Union, the threat of OC became a useful tool, enabling the creation of a common enemy and contributing to the creation of moral panics, especially about crime groups from the former USSR infiltrating societies in Western Europe. As a result, the provisions of the UN Convention against Transnational Organised Crime (UNTOC) were readily adopted by EU member states, and became requirements for new members hoping to join the Union. In this context, Romania, despite having not previously identified an OC threat at the national level, implemented UNTOC into its legislation, and later created specialised police and prosecutorial agencies to combat the newly labelled phenomenon.

As the legislation chapter has shown, this adoption of the UNTOC provisions on OC, including its definition, caused a series of problems in terms of both legal policy and practice, such as the overlap with existing policy and the uneven enforcement of the legislation. Moreover, with subsequent amendments, the reach of the OC legislation expanded, enabling a broader use of special police powers and investigative techniques. However, despite the vague conceptualisation of OC in legal policy, law-enforcement seems to have a more rigid understanding of the phenomenon. As a result, rather than being guided by the legislation on OC, practitioners often rely on the hierarchy of OC and the American-inspired stereotypical conceptualisation of OC which underpins it.

The consequences of the OC policy transfer process in Romania were discussed in the next two chapters. The chapter on policing OC looked at the perceptions and

interpretations of anti-OC police officers and prosecutors and highlighted the tensions between their conceptualisation of OC and the legal conceptualisation. It proposed the existence of a hierarchy of seriousness as a consequence of the importation of the concept of OC, with its underlying connotations, especially via stereotypical media depictions of Italian gangsters. Overall, my research participants did not consider Romanian OC to pose a significant threat to the national security of the country and felt that they had a good level of control of the phenomenon. The case study on cigarette smuggling illustrates how external pressure and the importation of the securitisation paradigm shape the official discourse on cigarette smuggling, as well as the hierarchy of seriousness of OC at the border with Ukraine, but they fail to do so elsewhere in the country. In essence, not only does the law-enforcement conceptualisation of OC differ significantly from the legal construction of the phenomenon, but different conceptualisations exist in different areas within Romania, resulting in uneven anti-OC policing across the country. This highlights the tension between the law in the books, transferred from the West, and the law in action which is based on the actors' interpretation of the policy on OC and broader conceptualisation, adapted to the specific local context that they operate within.

Lastly, the chapter on illegal logging presents an interesting case study into the pitfalls of criminal justice policy transference. As shown in the legislation chapter, through the transplantation of a foreign concept into Romanian legislation and criminal justice practice, several issues arose which led to the widening of the OC definition and the elimination of the legislation on criminal association. Although the expansion of the OC definition was intended to include offences which had previously been criminalised under criminal association, my interview findings indicate that in

terms of the social construction of OC by law-enforcement and prosecutors (and possibly the courts) this is not the case, and the notion of OC is still only really used to describe more highly-organised groups involved in stereotypical OC activities – like drug and human trafficking.

Essentially, this thesis has shown that, as a result of the importation of the concept of OC, as well as the implementation of Western-focused OC policies, the socio-legal conceptualisation of OC in Romania focuses on Western crime priorities – for example, the preventing of drugs from entering the markets in Western Europe – rather than on any local or national particularities. Because of this, crimes like illegal logging are not considered to be OC and are instead relegated to being dealt with by local police forces, who are, in the best case, poorly equipped to deal with them, and in the worst case, involved in it themselves. It could be concluded that the process of policy transference certainly shaped Romania's criminal justice policy, though not strictly for the better. In the case of illegal logging and other non-stereotypical OC activities has actually had a negative effect.

This thesis therefore contributes to the body of literature on policy transfer and its consequences. Although there is much literature on CJ policy transfer between the US and the UK, and between Western nations more generally, comparatively little was written about the process of importing Western CJ policies into post-soviet contexts. As argued previously, while voluntary policy transfer between culturally, politically and economically similar nations may work without many negative consequences, there is simply too much variation between member states of the EU

to impose Union-wide CJ policies and implement them successfully. This highlights some significant implications for EU leaders' ambitions to further integrate and unify CJ systems across the Union, and to eventually create a unified police force. Ultimately, Union-level or global CJ policies may successfully homogenise the law in the books across countries, but the law in action will not necessarily follow suit. If there is enough variation within one nation that one area conceptualises a crime type as OC while others do not, there is very little hope of there ever being enough integration to achieve the goal of universal, uniform policing globally.

Limitations

As with any piece of research, there have been some limitations which I would attempt to redress if given the chance to redo the study. Firstly, during the analysis of the interview data, it became clear that criminal justice judges have a significant role in shaping the socio-legal construction of OC. They are, in essence, the gatekeepers of what gets legally constructed as OC or not and use their own understandings of the concept to make these judgements. Thus, an important limitation of this study is that it lacks the perspective of judges, who might have been able to clarify some of the issues regarding the tension between the legal and social conceptualisations of OC. Another limitation is that the information regarding illegal logging is sourced from secondary sources, mainly environmental NGO reports and media articles. It would have been better to conduct some primary research with forestry workers and environmental activists, in order to be able to analyse the issue more comprehensively, rather than relying on someone else's analysis. However, as the topic of illegal deforestation only became a major theme in my analysis towards the

end of the data collection, I had no time left to address this. Nonetheless, both these limitations provide opportunities for further study, as outlined below.

Further research

As mentioned above, one suggestion for further study would be to look into the perspectives of criminal justice judges, as well as environmental activists and forestry sector employees, in order to get a fuller picture of the social conceptualisation of OC in Romania, and better understand the illegal logging phenomenon. Moreover, as indicated in the legislation chapter, at the time the research was carried out it was too soon to tell what the effects of the widened legal definition of OC were in practice. Future research should look into how it has affected the conceptualisation of OC in Romania, and how the legal practice has changed, if at all. Furthermore, as discussed in the methodology chapter, some interesting (sub)cultural patterns emerged from my interactions with police officers, and perhaps a study in post-soviet/anti-OC police culture could generate some interesting contributions to the field of police studies. All in all, although this was an exploratory study, it generated a variety of important findings, and has opened up several avenues for further research into policy transference, the hierarchy of seriousness of OC, police cultures and the policing of environmental crimes in a post-soviet context.

References

Abadinsky H (1985) *Organized crime*. 2nd ed. Nelson-Hall.

Abdullah H (2013) Reagan and Thatcher: 'Political soulmates'. *CNN*, 9th April. Available from: https://edition.cnn.com/2013/04/08/politics/thatcher-reagan/index.html.

Adamoli S, Di Nicola A, Savona EU, et al. (1998) *Organised Crime Around the World*.

Adăniloaie N (1973) Cuza Vodă și problema agrară. In: *Cuza Vodă. In memoriam*, Iași.

Ahern, K.. 2014. Gatekeepers: People Who Can (and Do) Stop Your Research in Its Tracks. London SAGE Publications, Ltd. Available at: https://dx.doi.org/10.4135/97814462730501453667 3 & gt; [Accessed 16 Jun 2022].

Albu P (2007) *Crima Organizata in Perioada de Tranzitie: O Amenintare Majora La Adresa Securitatii Internationale*. Bucuresti: Editura Ministerului Internelor si Reformei Administrative.

Anderson M, Den Boer M, Cullen P, et al. (1995) *Policing the European Union*. Clarendon Press. Available from: https://global.oup.com/academic/product/policing-the-european-union-9780198259657?cc=us&lang=en& (accessed 1 May 2018).

Arun G (2019) Romii - un ghimpe în talpa realității. *Deutsche Welle*, 17th October. Available from: https://p.dw.com/p/3RRQ6 (accessed 3 December 2021).

B.P. (2021) Alina Bica rămâne cu pedeapsa de 4 ani închisoare. Înalta Curte i-a respins recursul în casaţie | Alina Bica [former DIICOT Chief Prosecutor] receives4 year imprisonment verdict. The High Court rejected her appeal. *DIGI 24 News*, 13th January. Available from: https://www.digi24.ro/stiri/actualitate/justitie/alina-bica-ramane-cu-pedeapsa-de-4-ani-inchisoare-inalta-curte-i-a-respins-recursul-in-casatie-1433349 (accessed 8 December 2021).

Banakar, R (2015) *Normativity in Legal Sociology*. Springer Cham

Baum D (2016) Legalize It All: How to win the war on drugs. *Harper's Magazine*, April. Available from: https://harpers.org/archive/2016/04/legalize-it-all/ (accessed 28 February 2018).

Beare M and Woodiwiss M (2014) US Organized Crime Control Policies Exported Abroad. In: Paoli L (ed.), *The Oxford Handbook of Organized Crime*, New York: Oxford University Press, pp. 545–571.

Becker HS (1963) *Outsiders: Studies in the sociology of deviance. Outsiders: Studies*

in the sociology of deviance., Oxford, England: Free Press Glencoe.

Benson D and Jordan A (2011) What have we Learned from Policy Transfer Research? Dolowitz and Marsh Revisited. *Political Studies Review*, SAGE PublicationsSage UK: London, England 9(3): 366–378. Available from: http://journals.sagepub.com/doi/10.1111/j.1478-9302.2011.00240.x (accessed 28 May 2018).

Block AA and Chambliss WJ (1981) *Organizing crime*. New York: Elsevier.

Bogdan I (2021) Un activist de mediu și doi jurnaliști, bătuți crunt cu furci și topoare de mafia pădurilor. *Q Magazine*. Available from: https://www.qmagazine.ro/un-activist-de-mediu-si-doi-jurnalisti-batuti-crunt-cu-furci-si-topoare-de-mafia-padurilor/ (accessed 21 December 2021).

Borcea S (2016) Mafia pădurilor din România, devoalată de Curtea de Conturi. Cum a ajuns aurul verde al ţării în mâinile unor impostori | adevarul.ro. *Adevarul*, 26th January. Available from: https://adevarul.ro/locale/focsani/mafia-padurilor-romania-devoalata-curtea-conturi-ajuns-aurul-verde-proprietatea-impostori-1_56a76e1b37115986c6e9dfd3/index.html (accessed 22 December 2021).

Bowling B and Sheptycki J (2012) *Global policing*. Sage Publications Ltd.

Braithwaite J (1989) *Crime, shame, and reintegration*. Cambridge: Cambridge University Press.

Brodeur JP (2000) Transnational policing and human rights: A case study. In: Sheptycki JWE (ed.), *Issues in transnational policing*, Routledge, pp. 44–66.

Bryman A (2001) *Social research methods*. Oxford: Oxford University Press.

Business and Human Rights Resource Centre (2021) *Romania: Environmental activist and two journalists beaten while investigating illegal logging that may end up in supply chain of European companies; incl. co. responses - Business & Human Rights Resource Centre*. Available from: https://www.business-humanrights.org/en/latest-news/romania-environmental-activist-two-journalists-beaten-while-investigating-illegal-logging-that-may-end-up-in-supply-chain-of-european-companies-incl-co-responses/ (accessed 21 December 2021).

Caparini M and Marenin O (2005) Crime, Insecurity and Police Reform in Post-Socialist CEE. *The Journal of Power Institutions in Post-Soviet Societies*, Centre for Research and Study on Post-Soviet Societies and Institutions (Issue 2): 1–15. Available from: https://journals.openedition.org/pipss/330 (accessed 11 April 2018).

Center for the Study of Democracy (2010) *Examining the Links between Organised Crime and Corruption*.

Charmaz K (2011) Grounded Theory Methods in Social Justice Research. 4th ed. In: Denzin N and Lincoln Y (eds), *Handbook of Qualitative Research* , Thousand Oaks, CA: Sage, pp. 359–380.

Chiburțe L (2008) Teoria accesului la resursele naturale şi practicile sociale de exploatare a pădurilor: Theories of access to natural resources and social practices of forest exploitation. *Sociologie Românească* 6(3–4): 116–126. Available from: https://revistasociologieromaneasca.ro/sr/article/view/2008_3_4_chiburte (accessed 22 December 2021).

Chiriac M (2014) Much of Romania's Forest Restitution Deemed Illegal | Balkan Insight. *Balkan Insight*, Bucharest, 17th October. Available from: https://balkaninsight.com/2014/10/17/illegalities-hamper-romania-s-forest-restitution-process/ (accessed 22 December 2021).

Chiruta I (2021) The Representation of Roma in the Romanian Media During COVID-19: Performing Control Through Discursive-Performative Repertoires. *Frontiers in Political Science*, Frontiers 0: 58.

Christie N (1986) *The Ideal Victim*. *Revisiting the "Ideal Victim"*, Policy Press. Available from: http://policypress.universitypressscholarship.com/view/10.1332/policypress/9781447338765.001.0001/upso-9781447338765-chapter-002 (accessed 19 December 2021).

Ciocan O (2014) Dosarul retrocedărilor: Ilie Sârbu, Viorel Hrebenciuc, deputatul Ioan Adam şi directorul Romsilva Adam Crăciunescu, URMĂRIŢI PENAL. Prinţul Paul şi prinţesa Lia au fost audiaţi. *Mediafax*, 15th October. Available from: https://www.mediafax.ro/social/dosarul-retrocedarilor-ilie-sarbu-viorel-hrebenciuc-deputatul-ioan-adam-si-directorul-romsilva-adam-craciunescu-urmariti-penal-printul-paul-si-printesa-lia-au-fost-audiati-13388516 (accessed 22 December 2021).

Client Earth (2017) *Info-brief: EUTR enforcement in Romania*. Brussels. Available from: https://www.clientearth.org/media/nawh2qtq/2017-01-16-eutr-enforcement-in-romania-ce-en.pdf (accessed 22 December 2021).

Client Earth (2020) *EU announces legal action against Romania for illegal logging of Europe's last natural forests | ClientEarth*. Available from: https://www.clientearth.org/latest/press-office/press/eu-announces-legal-action-against-romania-for-illegal-logging-of-europe-s-last-natural-forests/ (accessed 22 December 2021).

Cohen S (1972) *Folk devils and moral panics : the creation of the Mods and Rockers*. London: Routledge.

Conference of the Parties to the United Nations Convention against Transnational Organized Crime (2010) Expert consultation on the use of the Convention for combating emerging forms of crime. Vienna: United Nations. Available from: https://www.unodc.org/documents/treaties/organized_crime/COP5/CTOC_COP_2010_3/CTOC_COP_2010_3_E.pdf (accessed 21 December 2021).

Corbin J and Strauss A (2008) *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. 3rd ed. SAGE Publications, Inc.

Costăchel V, Panaitescu PP and Cazacu A (1957) *Viața feudală în Țara Românească și Moldova (secolele XIV–XVI)* | *Feudal life in the Romanian and Moldovan Land (14th–16th centuries*. Bucharest: Editura Științifică.

Council of the European Union (2014) *Evaluation Report on Romania on "The practical implementation and operation of Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime and of Council Decision 2008/976/JHA ...* Brussels.

Council of The European Union (2000) *Doc. 6204/2/97. Enfopol 35 rev.2, adopted on 21 April 1997*.

Cressey DR (1969) *Theft of the Nation: The Structure and Operations of Organized Crime in America*. New York: Harper and Row.

Crowe JHV (1911) Russo-Turkish Wars (1828–29 and 1877–1878 – The War of 1877-78). 11th ed. In: *The Encyclopaedia Britannica; A Dictionary of Arts, Sciences, Literature and General Information XXIII*, Cambridge, pp. 931–936.

Crowhurst I and kennedy-macfoy m (2013) Troubling gatekeepers: methodological considerations for social research, *International Journal of Social Research Methodology,* 16:6, 457-462, DOI: 10.1080/13645579.2013.823281

Deleanu T (2016) Forest mafia: mayor accused of fraternisation, DNA powerless, forced resignations | Mafia lemnului, la Sălișteː primarul acuzat de ”fraternizare”, DNA fără vlagă, demisii forțate | Video și audio. *Turnul Sfatului*, 20th September. Available from: https://www.turnulsfatului.ro/2016/09/20/mafia-lemnului-la-saliste-primarul-acuzat-de-rdquo-fraternizare-rdquo-dna-fara-vlaga-demisii-fortate-video-si-audio-67961 (accessed 21 December 2021).

della Porta Donatella, Baglioni S and Reiter H (2015) Precarious Struggles in Italy. In: della Porta D, Hänninen S, Siisiäinen M, et al. (eds), *The New Social Division*, London: Palgrave Macmillan UK, pp. 215–232.

Digi24 (2014) DNA Brașov verifică retrocedarea a 90.000 de hectare de pădure. Procurorii au descins acasă la prinţul Paul. Ilie Sârbu şi Viorel Hrebenciuc au fost puşi sub acuzare | Digi24. *Digi24*. Available from: https://www.digi24.ro/stiri/actualitate/justitie/dna-brasov-verifica-retrocedarea-a-90-000-de-hectare-de-padure-procurorii-au-descins-acasa-la-printul-paul-ilie-sarbu-si-viorel-hrebenciuc-au-fost-pusi-sub-acuzare-307627 (accessed 22 December 2021).

Digi24 (2015) The story of illegal land restitutions related to the Baneasa Farm |Povestea retrocedărilor ilegale de la Ferma Băneasa | Digi24. *Digi24*, 10th December. Available from: https://www.digi24.ro/stiri/actualitate/justitie/povestea-retrocedarilor-ilegale-de-la-ferma-baneasa-466349 (accessed 22 December 2021).

DIGI24 (2017) Pensionări în masă, din Poliție: „Consider că trebuie să iau o pensie decentă” | Digi24. *Digi24*, 31st July. Available from: https://www.digi24.ro/stiri/actualitate/evenimente/sute-de-politisti-depun-astazi-cerere-de-pensionare-769946 (accessed 22 August 2021).

DIICOT (2008) *Activity report and analysis for 2007*. Bucharest. Available from: http://www.diicot.ro/images/documents/rapoarte_activitate/raport2007.pdf.

DIICOT (2016) *Activity report and analysis for 2015*. Bucharest. Available from: http://www.diicot.ro/images/documents/rapoarte_activitate/raport2015.pdf.

DIICOT (2019) *Activity report and analysis for 2018*. Bucharest. Available from: file:///C:/Users/alene/Dropbox/Organised crime/Organised crime readings/DIICOTraport2018.pdf.

Directia Generala Anticoruptie MAI (2011) *Studiu privind relaţionarea dintre criminalitatea organizată şi corupţie/Study regarding the relationship between organised crime and corruption*. Bucuresti.

Djuvara N (2009) *Între Orient și Occident. Țările române la începutul epocii moderne*. Humanitas.

Dolowitz D and Marsh D (1996) Who Learns What from Whom: A Review of the Policy Transfer Literature. *Political Studies*, SAGE PublicationsSage UK: London, England 44(2): 343–357. Available from: http://journals.sagepub.com/doi/10.1111/j.1467-9248.1996.tb00334.x (accessed 28 May 2018).

Dorn N, Jepsen J and Savona E (1996) *European Drug Policies and Enforcement*. Basingstoke: MacmillanPress.

Dorondel S (2016) *Disrupted Landscapes: State, Peasants and the Politics of Land in Postsocialist Romania*. 1st ed. Berghahn Books. Available from: https://blackwells.co.uk/bookshop/product/Disrupted-Landscapes-by-Stefan-Dorondel-author/9781800730113 (accessed 21 December 2021).

Dudley N, Jeanrenaud J and Sullivan F (1995) *Bad Harvest? The Timber Trade and the Degradation of the World’s Forests*. London: Earthscan.

Duyne PC Van (1969) The creation of a threat image Media , policy making and organised crime.

EcoJust (2019) Real costs of illegal logging, fishing, and wildlife trade | EcoJust | Environmental lawyer working for ecological justice. Available from: https://www.ecojust.eu/the-real-costs-of-illegal-logging-fishing-and-wildlife-trade-1-trillion-2-trillion-per-year/ (accessed 21 December 2021).

Edwards A and Gill P (2003) *Transnational organised crime : perspectives on global security*. 1st ed. Edwards A and Gill P (eds), New York: Routledge.

Elvins M (2003) Europe’s response to transnational organised crime. In: Edwards A and Gill P (eds), *Transnational organised crime : perspectives on global security*,

New York: Routledge, pp. 28–41.

Environmental Investigation Agency (2015) *Stealing the Last Forest: Austria's Largest Timber Company, Land Rights, and Corruption in Romania*. Available from: https://www.illegal-logging.info/sites/files/chlogging/EIA %282015%29 Romania Report.pdf.

Environmental Investigation Agency (2017) Saving Europe's last virgin forests. Available from: https://eia-global.org/subinitiatives/romania (accessed 19 December 2021).

Erickson-Davis M (2017) Illegal logging shows little sign of slowing. *Eco-Business*, 5th January. Available from: https://www.eco-business.com/news/illegal-logging-shows-little-sign-of-slowing/ (accessed 22 December 2021).

Erjavec K, Hrvatin S and Kelbl B (2000) We About the Roma. Discriminatory Discourse in the Media in Slovenia. *Mediawatch*. Available from: https://www.mirovni-institut.si/wp-content/uploads/2014/08/we_about_the_roma.pdf (accessed 4 December 2021).

European Commission (n.d.) *Illegal Logging/FLEGT Action Plan*. Available from: https://ec.europa.eu/environment/forests/illegal_logging.htm (accessed 22 December 2021).

European Network Against Racism; and European Roma Information Office (n.d.) *Debunking Myths & Revealing Truths about the Roma*. Available from: http://rroms.blogspot.com/ (accessed 23 December 2021).

FATF (n.d.) About - Financial Action Task Force (FATF). Available from: https://www.fatf-gafi.org/about/ (accessed 19 February 2020).

Fijalkowski A (2007) The paradoxical nature of crime control in post-communist Europe. *European Journal of Crime, Criminal Law and Criminal Justice* 15(2): 155–172.

Fijnaut C (2014a) European Union Organized Crime Control Policies. In: Paoli L (ed.), *The Oxford Handbook of Organized Crime*, New York: Oxford University Press, pp. 572–592.

Fijnaut C (2014b) Searching for Organized Crime in History. In: Paoli L (ed.), *The Oxford Handbook of Organized Crime*, New York: Oxford University Press, pp. 53–95. Available from: http://oxfordhandbooks.com/view/10.1093/oxfordhb/9780199730445.001.0001/oxfordhb-9780199730445-e-023 (accessed 17 February 2018).

Finckenauer JO (2005) Problems of Definiton: What Is Organized Crime? *Trends in Organized Crime* 8(3): 63–83. Available from: http://link.springer.com/article/10.1007/s12117-005-1038-4.

Forest Stewardship Council (2016) FSC places the Schweighofer Group on probation for disassociation| Forest Stewardship Council. Bonn, Germany. Available from:

https://fsc.org/en/newsfeed/fsc-places-the-schweighofer-group-on-probation-for-disassociation (accessed 22 December 2021).

Friedman LM (1993) *Crime and punishment in American history*. New York: BasicBooks.

Garland D (1996) The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society. *British Journal of Criminology* 36(4): 445–471. Available from: https://academic.oup.com/bjc/article/36/4/445/459219 (accessed 24 December 2021).

Gel'man V (2004) Politics Beyond the Garden Ring: Rethinking the Post-Soviet Experience. In: Slater W and Wilson A (eds), *The Legacy of the Soviet Union*, London: Palgrave Macmillan, pp. 208–227.

Ghiduc M (2019) The man who stood up to the forest mafia in Romania | Omul care s-a pus cu mafia lemnului din România. *Vice Romania*, 19th June. Available from: https://www.vice.com/ro/article/7xgqbg/omul-care-s-a-pus-cu-mafia-lemnului-din-romania (accessed 21 December 2021).

Ghilas O (2019) Silvicultorii ies în stradă: Pădurar clujean, amenințat cu cuțitul | Ziar de Cluj. *Ziar de Cluj*, Cluj, 24th September. Available from: https://www.ziardecluj.ro/silvicultorii-ies-strada-padurar-clujean-amenintat-cu-cutitul (accessed 22 December 2021).

Gillet K (2021) Liechtenstein Royal Is Accused in Bear Killing in Romania - The New York Times. Available from: https://www.nytimes.com/2021/05/07/world/europe/romania-bear-killed-liechenstein-prince.html (accessed 21 December 2021).

Global Witness (2020) Defending Tomorrow | Global Witness. Available from: https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/ (accessed 21 December 2021).

Global Witness (2021) The industries causing the climate crisis and attacks against defenders | Global Witness. Available from: https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/ (accessed 21 December 2021).

Gorden RL (1969) *Interviewing: Strategy, Techniques, and Tactics*. Dorsey Press.

Gorkič P (2012) Policing Organised Crime: A Paradox of Transition? In: Šelih A and Završnik A (eds), *Crime and transition in Central and Eastern Europe*, Springer, pp. 97–116.

Gounev P and Ruggiero V (2012) *Corruption and Organized Crime in Europe: Illegal Partnerships*. Gounev P and Ruggiero V (eds), New York: Routledge.

GRECO (Group of States against corruption) (2001) *Evaluation Report on Romania*. Available from: https://rm.coe.int/16806c7c12.

Green P, Tony W and McConnachie K (2007) Logging and Legality: Environmental

Crime, Civil Society, and the State. *Social Justice* 34(2): 94–110.

Greenpeace (2011) Forestcover Change in Romania. Available from: http://intactforests.org (accessed 21 December 2021).

Hardin G (1968) The Tragedy of the Commons. *Science* 162(3859): 1243–1248. Available from: https://www.jstor.org/stable/1724745 (accessed 16 December 2021).

Hobbs D (1998) Going Down the Glocal: The Local Context of Organised Crime. *The Howard Journal of Criminal Justice* 37(4): 407–422.

Hobbs D (2013) *Lush life : constructing organized crime in the UK*. 1st ed. Oxford: Oxford University Press.

Hobbs D and Antonopoulos GA (2013) 'Endemic to the species': Ordering the 'other' via organised crime. *Global Crime* 14(1): 27–51.

Holmes L (2009a) Crime, organised crime and corruption in post-communist Europe and the CIS. *Communist and Post-Communist Studies*, Elsevier Ltd 42(2): 265–287. Available from: http://dx.doi.org/10.1016/j.postcomstud.2009.04.002.

Holmes L (2009b) Crime, organised crime and corruption in post-communist Europe and the CIS. *Communist and Post-Communist Studies* 42(2): 265–287.

Iamandescu I-B (2011) *Muzicoterapia receptiva*. 2nd ed. Constanta: Editura Fundaţiei „Andrei Şaguna".

INTERPOL and United Nations Environment Programme (2012) *Summit report: international chiefs of environmental compliance and enforcement*. Lyon.

Ion A (2015) Un pădurar şi un tehnician silvic au fost încătuşaţi pentru că au marcat şi tăiat ilegal peste 100 de arbori | adevarul.ro. Available from: https://adevarul.ro/locale/targu-jiu/un-padurar-tehnician-silvic-fost-incatusati-marcat-taiat-ilegal-100-arbori-1_55a80ff4f5eaafab2ca33b73/index.html (accessed 21 December 2021).

IPSOS (2019) *Global Views on the Environment*. Available from: https://www.ipsos.com/sites/default/files/Global_Views_on_the_Environment.pdf (accessed 21 December 2021).

Jacobs JB and Gouldin LP (1999) Cosa Nostra: The Final Chapter? *Crime and Justice*, [University of Chicago Press, University of Chicago] 25: 129–189. Available from: http://www.jstor.org/stable/1147609.

Jamieson A (2020) Brussels threatens Romania over illegal logging in primary forests | Euronews. Available from: https://www.euronews.com/2020/02/12/brussels-threatens-romania-over-illegal-logging-in-primary-forests (accessed 21 December 2021).

Jones T and Newburn T (2002) Policy convergence and crime control in the USA and the UK. *Criminal Justice* 2(2): 173–203.

Jussim L (1991) Social perception and social reality: A reflection-construction model. *Psychological Review* 98(1): 54–73.

Karstedt S (2003) Legacies of a culture of inequality: The Janus face of crime in post-communist countries. *Crime, Law and Social Change 2003 40:2*, Springer 40(2): 295–320. Available from: https://link.springer.com/article/10.1023/A:1025767204705 (accessed 21 December 2021).

Karstedt S (2014) Organizing Crime: The State as Agent. In: Paoli L (ed.), *The Oxford Handbook of Organized Crime*, New York: Oxford University Press, pp. 303–320.

Keats DM (1999) *Interviewing : a practical guide for students and professionals*. University of New South Wales Press.

Kidd AG (2017) Mansplaining: The Systematic Sociocultural Silencer. University of North Georgia https://digitalcommons.northgeorgia.edu/cgi/viewcontent.cgi?article=1681&context=ngresearchconf

Kirby P (2021) Prince blamed for shooting one of Europe's biggest bears - BBC News. Available from: https://www.bbc.co.uk/news/world-europe-56991543 (accessed 21 December 2021).

Klockars CB (1980) The Dirty Harry Problem: *The ANNALS of the American Academy of Political and Social Science*, Sage PublicationsSage CA: Thousand Oaks, CA 452(1): 33–47. Available from: https://journals.sagepub.com/doi/10.1177/000271628045200104 (accessed 8 December 2021).

Kramer AE (2020) Floods Afflict Ukraine as It Tries to Control the Coronavirus. Available from: https://www.nytimes.com/2020/06/24/world/europe/ukraine-flood-coronavirus.html (accessed 21 December 2021).

Kramer R (2013) Carbon in the Atmosphere and Power in America: Climate Change as State-corporate Crime. *Journal of Crime and Justice* 362: 153–170.

Kupka P and Mocht'ak M (2015) The Nagygate affair, corruption and organized crime: Corruption networks and their potential impact on the quality of democracy in the Czech Republic. *World Political Science* 11(1): 157–185.

Kvale S (1996) *InterViews : An introduction to qualitative research interviewing*. Thousand Oaks, CA: Sage Publications.

Lacey, N. (2003) 'Principles, politics and criminal justice', in L. Zedner and A. Ashworth (eds) The Criminological Foundations of Penal Policy: Essays in Honour of Roger Hood. Oxford: Clarendon Press.

Lavorgna A and Sergi A (2014) Types of organised crime in Italy. The multifaceted spectrum of Italian criminal associations and their different attitudes in the

financial crisis and in the use of Internet technologies. *International Journal of Law, Crime and Justice*, Elsevier Ltd 42(1): 16–32. Available from: http://dx.doi.org/10.1016/j.ijlcj.2013.11.002.

Ledeneva A (1998) *Russia's Economies of Favours: Blat, Networking and Informal Exchange*. Cambridge: Cambridge University Press.

Lee J (2019) The Myth of "Gypsy Criminality". *Travellers Times*, 29th August. Available from: https://www.travellerstimes.org.uk/features/myth-gypsy-criminality (accessed 3 December 2021).

Levi M (2002) The organization of serious crimes. In: Maguire M, Morgan R, and Reiner R (eds), *The Oxford handbook of criminology*, Oxford: Oxford University Press.

Lindesmith AR (1941) Organized Crime. *The Annals of the American Academy of Political and Social Science*, Sage PublicationsSage CA: Thousand Oaks, CA 217(1): 119–127. Available from: http://journals.sagepub.com/doi/10.1177/000271624121700115 (accessed 13 February 2018).

Loftus B (2009) *Police Culture in a Changing World*. Oxford: Oxford University Press.

Makovicky N and Henig D (2017) *Economies of Favour After Socialism*. Oxford: Oxford University Press.

Măntescu L and Vasile M (2009) Property reforms in rural Romania and community-based forests. *Sociologie Românească* 7(2): 95–113. Available from: https://arsociologie.ro/revistasociologieromaneasca/sr/article/view/2009_2_mantescu (accessed 22 December 2021).

Marica I (2018) Project: More than 2,000 bears to be killed in Romania in 10 years | Romania Insider. Available from: https://www.romania-insider.com/project-bears-killed-romania/ (accessed 21 December 2021).

Marquina A (2008) Organised Crime and Corruption in Georgia. *UNISCI Discussion Papers* (18): 225–228.

Massey DB (1994) *Space, place, and gender*. Cambridge: Polity Press.

Mateescu O (2002) The Dark Side Of The State: "Mafia" And "National Interest" In Postsocialist Romania. *Romanian Journal of Society and Politics* 2(1): 5–29.

Matei C (2021) DNA deschide o anchetă privind tăierile ilegale de lemn. "Este vorba despre Mafia Pădurilor" - Stirileprotv.ro. Available from: https://stirileprotv.ro/justitie/dna-deschide-o-ancheta-privind-taierile-ilegale-de-lemn-este-vorba-despre-mafia-padurilor.html (accessed 21 December 2021).

Mattei U and Nader L (2008) *Plunder : when the rule of law is illegal*. Oxford: Blackwell Publishing.

McGrath S (2019a) Brown bear attacks: Deaths spark fear in Romania - BBC News.

Available from: https://www.bbc.co.uk/news/world-europe-50473443 (accessed 21 December 2021).

McGrath S (2019b) Romania forest murder as battle over logging turns violent - BBC News. Available from: https://www.bbc.co.uk/news/world-europe-50094830 (accessed 21 December 2021).

Melossi, D. (2000) 'Translating social control: reflections on the comparison of Italian and North American cultures concerning social control, with a few consequences for "critical" criminology', in S. Karstedt and K.-D. Bussmann (eds) Social Dynamics of Crime and Control. Oxford: Hart Publishing.

Miclovan A (2021) Romanian forest mafia, under scrutiny of the European Parliament | Mafia pădurilor din România, în vizorul PE datorită eurodeputatului Vlad Gheorghe și activistului Daniel Bodnar. Ce soluții se propun de la Bruxelles în cadrul unui amplu studiu. *Podul*, 11th November. Available from: https://www.podul.ro/articol/16034/mafia-pdurilor-din-romania-in-vizorul-pe-datorit-eurodeputatului-vlad-gheorghe-i-activistului-daniel-bodnar-ce-soluii-se-propun-de-la-bruxelles-in-cadrul-unui-amplu-studiu (accessed 21 December 2021).

Mishler EG (1986) *Research Interviewing : Context and Narrative*. Cambridge, Mass.: Harvard University Press.

Moldoveanu I (2019) Hoții de lemne ucid pădurari români și nimănui nu-i pasă. Available from: https://www.vice.com/ro/article/zmj53x/hotii-de-lemne-ucid-padurari-romani (accessed 21 December 2021).

Molnar L (2021) The Imperative Need for Criminological Research on the European Roma: A Narrative Review. *Trauma, violence & abuse*, SAGE PublicationsSage CA: Los Angeles, CA 0(0). Available from: http://www.ncbi.nlm.nih.gov/pubmed/34622703 (accessed 3 December 2021).

Moore WH (1974) *The Kefauver Committee and the Politics of Crime, 1950–1952*. Columbia: University of Missouri Press.

Nadelmann EA (1993) *Cops Across Borders : the internationalization of criminal law enforcement.* Pennsylvania State Univ P.

Neag A (2020) Organised crime legislation in Romania: A case of policy transference? In: van Duyne P, Siegel D, Antonopoulos G, et al. (eds), *Criminal Defiance in Europe and Beyond: From organised crime to crime-terror nexus*, The Hague: Eleven International Publishing, pp. 21–49.

Nedea A (2020) 'The Forest Mafia: I was reproached for not bringing in enough party money' | Mafia pădurilor, descrisă din interior: „Mi s-a reproșat că nu aduc bani la partid". *Recorder*, 26th October. Available from: https://recorder.ro/mafia-padurilor-descrisa-din-interior-mi-s-a-reprosat-ca-nu-aduc-bani-la-partid/ (accessed 21 December 2021).

Nelken, D. (2002) 'Comparing Criminal Justice', in M. Maguire et al. (eds) The Oxford

Handbook of Criminology (3rd edn). Oxford: Oxford University Press.

Newburn T and Sparks R (2004) Criminal Justice and Political Cultures. Newburn T and Sparks R (eds), Abingdon: Willan.

OCCRP (2016a) Clear Cut Crimes. 20th September. Available from: https://www.occrp.org/en/investigations/5655-clear-cut-crimes.

OCCRP (2016b) Romania: Illegal Logging Declared A 'Threat to National Security'. 12th January. Available from: https://www.occrp.org/en/daily/4787-romania-illegal-logging-declared-a-threat-to-national-security.

Paoli L (2014) *The Oxford handbook of organized crime*. Paoli L (ed.), New York: Oxford University Press.

Paoli L and Vander Beken T (2014) Organized Crime: A Contested Concept. In: Paoli L (ed.), *The Oxford Handbook of Organized Crime*, New York: Oxford University Press, pp. 13–31.

Papanicolaou G (2011) *Transnational Policing and Sex Trafficking in Southeast Europe: Policing the Imperialist Chain*. *Transnational Crime, Crime Control and Security*, Palgrave Macmillan.

Pavalasc M (2021) If Hunting Bears Is Illegal In Romania, Why Are Hundreds Killed Each Year? Available from: https://www.rferl.org/a/romania-hunting-bears-hundreds-killed-illegal-trophy-environmentalists/31099549.html (accessed 21 December 2021).

Pemberton A (2016) Environmental Victims and Criminal Justice: Proceed with Caution. In: Spapens T, White R, and Kluin M (eds), *Environmental crime and its victims: Perspectives within green criminology*, Routledge.

Pîrvulescu C (2020) Clanurile, criminalitatea şi rasismul | Clans, criminality and racism. *Bursa*, 17th August. Available from: https://www.bursa.ro/clanurile-criminalitatea-si-rasismul-43753042 (accessed 23 December 2021).

Potter GW (1994) *Criminal Organizations : Vice, Racketeering, and Politics in an American City*. Prospect Heights, Illinois: Waveland Press.

Pound R (1910) Law in Books and Law in Action, *American Law Review* 44(12).

Pub.L. 91–452. 84 Stat. 922 (1970) Racketeer Influenced and Corrupt Organizations Act. United States.

Puzo M (1969) *The Godfather*. London: Arrow.

R.C. (2021) The police perspective in forest mafia scandal | Varianta poliţiei în scandalul legat de mafia pădurilor. *Cotidianul*, 17th September. Available from: https://www.cotidianul.ro/varianta-politiei-in-scandalul-legat-de-mafia-padurilor/ (accessed 21 December 2021).

Radio Free Europe (2020) EU Warns Romania Over Illegal Logging. *Radio Free Europe/Radio Liberty*, 12th February. Available from: https://www.rferl.org/a/eu-

warns-romania-over-illegal-logging/30431181.html (accessed 22 December 2021).

Rawlinson P (2010) *From Fear to Fraternity: A Russian Tale of Crime, Economy and Modernity*. Pluto Press.

Rebreanu L (1920) *Ion (trans. A. Hillard)*.

Reiner R (1985) *The politics of the police*. Oxford University Press.

Reiner R and Newburn T (2008). Police research. In: R. King and W. Emma, eds. *Doing research on crime and justice*. Oxford: Oxford University Press, 343–362.

Reuter P (1983) *Disorganized crime : the economics of the visible hand*. MIT Press.

Richards D (1996) Elite Interviewing: Approaches and Pitfalls. *Politics* 16(3): 199–204.

Rise Project (2015) *Schweighofer at The Center of the Illegal Deforestation Scandal in Romania*. Available from: http://www.riseproject.ro/investigation/schweighofer-in-the-center-of-illegal-deforestation-scandal-in-romania/.

Ritchie J and Lewis J (2003) *Qualitative Research Practice. A Guide for Social Science Students and Researchers Edited by*. London: SAGE Publications.

Romania's Presidential Administration (2020) National Defence Strategy 2020-2024. *Official Journal of Romania*, Bucharest. Available from: https://www.presidency.ro/files/userfiles/National_Defence_Strategy_2020_2024.pdf (accessed 2 December 2021).

Romania Insider (2019) Netflix crew filming documentary in Romania allegedly assaulted by loggers | Romania Insider. *Romania Insider*, 15th November. Available from: https://www.romania-insider.com/romania-netflix-documentary-illegal-logging (accessed 21 December 2021).

Rose R (1993) Lesson-drawing in public policy. Sage.

Ruspini P (2009) Editorial. *Romanian Journal of European Studies* (7–8): 7–10.

Scheinost M and Diblikova S (2008) Criminal conspiracy from the perspective of the Czech Republic: The legal framework, definition, prosecution, and offenders. In: Van Duyne PC, Harvey J, Maljević A, et al. (eds), *European crime-markets at cross-roads: Extended and extending criminal Europe*, Nijmegen: Wolf Legal Publishers, pp. 97–120. Available from: http://cross-border-crime.net/freecopies/CCC_freecopy_2008a_CrossRoads.pdf.

Sergi A (2015) Divergent mind-sets, convergent policies: Policing models against organized crime in Italy and in England within international frameworks. *European Journal of Criminology*, SAGE Publications 12(6): 658–680. Available from: https://doi.org/10.1177/1477370815578196.

Sergi A (2016) Three Tales / Two Threats. Prosecutors in Italy, England and the United States narrate national and transnational organised crime. In: Van Duyne

PC, Sheinost M, Antonopoulos GA, et al. (eds), *Narratives on Organised Crime in Europe. Criminals, Corrupters & Policy*, Oisterwijk: Wolf Legal Publishers.

Sergi A (2017) *From Mafia to Organised Crime: a comparative analysis of policing models*. Palgrave Macmillan.

Sergi A (2019a) The 'Ndrangheta Down Under: Constructing the Italian Mafia in Australia. *The European Review of Organised Crime* 5(1): 60–84.

Sergi A (2019b) Albanian mafia: the dangerous myth that distorts our view of the global drugs trade. *The Conversation*. Available from: https://theconversation.com/albanian-mafia-the-dangerous-myth-that-distorts-our-view-of-the-global-drugs-trade-110043 (accessed 4 December 2021).

Shelly LI (1999) *Organized crime in the former Soviet union: the distinctiveness of Georgia*. Tbilisi. Available from: http://www.conflicts.rem33.com/images/Georgia/crim_geor_shell.pdf (accessed 18 December 2021).

Skolnick JH (1966) *Justice without Trial: Law Enforcement in Democratic Society*. New York: Wiley.

Smith DJ (1975) *The Mafia Mystique*. New York: Basic Books.

Standing A (2010) *Transnational Organized Crime and the Palermo Convention : A Reality Check*. New. Available from: ipinst.org.

Stoica A (2021) Forest mafia, hunted via satellite | Satelitul va lua urma mafiei pădurilor . *Jurnalul.ro*, 20th August. Available from: https://jurnalul.ro/special-jurnalul/satelitul-va-lua-urma-mafiei-padurilor-880066.html (accessed 21 December 2021).

Sutherland EH (1934) *Principles of Criminology*. Chicago: JB Lippincot.

Sutherland EH (1949) *White Collar Crime*. New York: Dryden Press.

Sykes GM and Matza D (1957) Techniques of Neutralization: A Theory of Delinquency. *American Sociological Review*, [American Sociological Association, Sage Publications, Inc.] 22(6): 664–670. Available from: http://www.jstor.org/stable/2089195.

Taylor S, Bogdan R and DeVault M (2015) *Introduction to Qualitative Research Methods: A Guidebook and Resource*. 4th ed. *Introduction to Qualitative Research Methods: A Guidebook and Resource*, New York: Wiley. Available from: https://www.wiley.com/en-us/Introduction+to+Qualitative+Research+Methods%3A+A+Guidebook+and+Resource%2C+4th+Edition-p-9781118767214 (accessed 23 December 2021).

The Romanian Government (2015) OUG nr. 32/2015 privind infiinţarea Gărzilor forestiere | Emergency Ordinance 32/2015 on the establishment of forest guards. *Official Monitor of Romania*.

The Traveller Movement (n.d.) *Policing by consent: Understanding and improving relations between Gypsies, Roma, Travellers and the police*. Available from: https://wp-main.travellermovement.org.uk/wp-content/uploads/2021/09/Policing-by-Consent-Report-long.pdf (accessed 3 December 2021).

The White House (1998) International Crime Control Strategy. The White House. Available from: https://irp.fas.org/offdocs/iccs/iccsix.html (accessed 24 December 2021).

Tilly C (1985) War Making and State Making as Organized Crime. In: Evans P, Rueschemeyer D, and Skocpol T (eds), *Bringing The State Back In*, Cambridge: Cambridge University Press, pp. 169–187. Available from: http://www.organized-crime.de/ASC2005-kvl.pdf.

Turp-Balazs C (2019) Romanian activists turn to witchcraft in fight against illegal logging - Emerging Europe. Available from: https://emerging-europe.com/after-hours/romanian-activists-turn-to-witches-in-fight-against-illegal-logging/ (accessed 21 December 2021).

Ultima Ora (2016) Despre măsurile de combatere a defrișărilor ilegale: Peste 100 de noi sancțiuni | On the methods of combatting illegal deforestation: Over 100 new sanctions. *Ultima Ora*, 1st September. Available from: http://www.ultima-ora.ro/2016/09/01/despre-masurile-de-combatere-a-defrisarilor-ilegale-peste-100-de-noi-sanctiuni.

Ultima Ora (2017) OUG 51 privind contravențiile silvice, un nou motiv de zâzanie – Ultima Oră. *Ultima Ora*, 24th February. Available from: https://ultima-ora.ro/oug-51-privind-contraventiile-silvice-un-nou-motiv-de-zazanie/ (accessed 22 December 2021).

United Nations (1994) World Ministerial Conference on Organized Transnational Crime. In: *Naples Political Declaration and Global Action Plan against Organized Transnational Crime*, Naples. Available from: http://www.un.org/documents/ga/res/49/a49r159.htm (accessed 27 November 2018).

United Nations Office on Drugs and Crime (2002) *Results of a pilot survey of forty selected organized criminal groups in sixteen countries*. *Global Programme Against Transnational Organized Crime*.

UNODC (2012) Wildlife and Forest Crime Analytical Toolkit (revised ed).

US Senate (1951) *The Kefauver Committee report on organized crime*. New York.

van Dijk J (2007) Mafia markers: Assessing organized crime and its impact upon societies. *Trends in Organized Crime* 10(4): 39–56.

van Duyne P, Siegel D, Antonopoulos G, et al. (2020) *Criminal Defiance in Europe and Beyond: From Organised Crime to Crime-Terror Nexus*. van Duyne P, Siegel D, Antonopoulos G, et al. (eds), The Hague: Eleven International Pubishing.

Van Duyne PC (1996) Organized crime, corruption and power. *Crime, Law and Social Change*, Kluwer Academic Publishers 26(3): 201–238. Available from: http://link.springer.com/10.1007/BF00230862 (accessed 17 February 2018).

Van Duyne PC and Levi M (2005) *Drugs and Money: Managing the Drug Trade and Crime Money in Europe*. London: Routledge.

Van Duyne PC and Nelemans MDH (2011) Transnational Organized Crime. In: Allum F and Gilmour S (eds), *Routledge Handbook of Transnational Organized Crime*, Routledge.

Van Duyne PC, Harvey JH and Gelemerova LY (2018) *The Critical Handbook of Money Laundering*. *The Critical Handbook of Money Laundering*, London: Palgrave Macmillan.

Vandergert P and Newell J (2003) Illegal logging in the Russian Far East and Siberia. *International Forestry Review* 5(3): 303–306.

Varese F (2011) *Mafias on the Move: How Organized Crime Conquers New Territories*. Princeton, NJ: Princeton University Press.

Vasile M (2009) Corruption In Romanian Forestry - Morality And Local Practice In The Context Of Privatization (English version). *Revista Romana de Sociologie*, Revista Romana de Sociologie, Revista Romana de Sociologie - actualizata si mentinuta de Editura Lumen/ Romanian Journal of Sociology 1: 105–120. Available from: https://ideas.repec.org/a/lum/rev19g/v1-2y2009ip105-120.html.

von Lampe K (2008) Organized Crime in Europe: Conceptions and Realities. *Policing* 2(1): 7–17. Available from: https://academic.oup.com/policing/article-lookup/doi/10.1093/police/pan015.

von Lampe K (2021) Definitions of Organized Crime. Available from: www.organized-crime.de/organizedcrimedefinitions.htm (accessed 24 December 2021).

Von Lampe K (2016) *Organized Crime: Analyzing Illegal Activities, Criminal Structures, and Extra-legal Governance*. London: SAGE Publications Ltd.

Waddington P (1999) Police (canteen) culture. *British Journal of Criminology* 39(2): 287–309.

Webster P (1998) Rethinking drug prohibition: Don’t look for U.S. Government leadership. *International Journal of Drug Policy* 9(5): 297–303.

White R (2008) *Crimes against nature : environmental criminology and ecological justice*. Willan.

White R (2013) Environmental harm: An eco-justice perspective. *Environmental Harm: An Eco-Justice Perspective*, Policy Press: 1–215.

White R (2016) Building NESTs to combat environmental crime networks. *Trends in Organized Crime* 19(1): 88–105.

Woodiwiss M (1988) *Crime, Crusades and Corruption: Prohibitions in the United*

States, 1900 – 1987. London: Pinter.

Woodiwiss M (2001) *Organized Crime and American Power: A History*. Toronto: University of Toronto Press.

Woodiwiss M (2003) Transnational organised crime: The global reach of an American concept. In: Edwards A and Gill P (eds), *Transnational Organised Crime: Perspectives on global security*, New York: Routledge, pp. 13–27. Available from: http://eprints.uwe.ac.uk/6799/ (accessed 13 February 2018).

Woodiwiss M and Hobbs D (2009) Organized evil and the Atlantic alliance: Moral panics and the rhetoric of organized crime policing in America and Britain. *British Journal of Criminology* 49(1): 106–128.

World Bank Group (2019) *Illegal Logging, Fishing, And Wildlife Trade: The Costs And How To Combat It*.

Young J (1999) *The exclusive society : social exclusion, crime and difference in late modernity*. SAGE.

Zebrowitz LA (1990) *Social perception*. Open University Press.

Appendix I: Informed Consent Form

Title of the Project: The Socio-Legal Construction of Organised Crime in Romania
Researcher: Alexandra Neag, Department of Sociology, University of Essex

Please initial box

1. **I confirm that I** have read and understand the Information Sheet for the above study. I have had the opportunity to consider the information, ask questions and have had these questions answered satisfactorily. ☐
2. I understand that my participation is voluntary and that I am free to withdraw from the project at any time without giving any reason and without penalty. ☐
3. I understand that the identifiable data provided will be securely stored and accessible only to the members of the research team directly involved in the project (myself and my supervisors, if needed), and that confidentiality will be maintained. ☐
4. I understand that data collected in this project might be shared as appropriate and for publication of findings, in which case data will remain completely anonymous, unless pre-agreed otherwise. ☐
5. I agree to the interview being audio recorded. ☐
6. I consent to having statements and quotes attributed to me by name. ☐
7. I agree to take part in the above study. ☐

Participant Name	Date	Participant Signature
_____	_____	_____
Researcher Name	Date	Researcher Signature
_____	_____	_____

Appendix II: Participant information sheet

The Socio-Legal Construction of Organised Crime in Romania

Researcher: Alexandra Neag

Overview of the project

The aim of this research project is to analyse how the notion of organised crime has been constructed in Romanian legislation and criminal justice strategies after the 1989 Revolution. I wish to see how the fall of the regime and the country joining the European Union, as well as international influence, have impacted Romanian anti-organised crime policies and practices and affected the ways in which organised crime is perceived by those working to tackle it.

This will be achieved by using ethnographic methods to study law-enforcement agencies, as well as semi-structured interviews with people who have worked or are presently working in the area of crime-prevention, national legislation and criminal justice. I will also conduct an analysis of national and international legislation and policies on organised crime.

Methodology

In order to collect appropriate data, I will conduct participant observation and in-depth interviews with individuals who work or have worked in the relevant criminal justice areas in Romania. Interviews will range in length from 30min to 1h30min.

Your participation in this project is entirely voluntary and you will be able to give your consent or refuse to do so after reading this information sheet. You can withdraw from the project at any time, including after giving your consent, without giving reasons. You can do this by contacting me at any point during the project (before

July 2020); all the information provided up until that point will be destroyed and none of it shall be used in the final report.

All names and details will be anonymised using pseudonyms so that you will not be identifiable as a participant in this project. The original data, including any audio recordings, will be stored securely in encrypted folders on a memory stick and on my personal computer, accessed only by me and, if necessary, my PhD supervisors. It is possible that I use a professional transcriber and/or translator for some of the data collected, who will also have access to the original data. The only exception to this is if you decide to consent to your name being published together with your statements; you have every right to refuse this and it will not impact your participation in this study, nor will you experience any repercussions.

The findings of this project, including anonymous or attributed quotes (with your consent), are likely to be published in academic journal articles, reports and on websites such as the University of Essex one. The raw, non-anonymised data (in the form of audio recordings) will be kept in encrypted folders as described above until the end of the research project or until all of it is transcribed, in order to ensure all quotes used are correct. If transcription is not completed by the end of the project, the files will be deleted from my computer and kept on an encrypted memory stick for a maximum period of 5 years from my PhD completion date. After this, all non-anonymised information will be erased and the memory stick will be overwritten using a programme to ensure complete erasure.

Should you have any questions about this or about the project in general please use the details on the next page to contact me, my supervisor or the University Research Governance and Planning Manager.

Contact details: Alexandra Neag
Department of Sociology, University of Essex
Wivenhoe Park, Colchester, CO4 3SH
Email: ineag@essex.ac.uk
Phone: +44 7804 647946 (UK); +40 746 577745 (RO)

Supervisor and contact details: Dr Darren Thiel
Department of Sociology, University of Essex
Wivenhoe Park, Colchester, CO4 3SH
Email: djthiel@essex.ac.uk

Research Governance and Planning Manager: Sarah Manning-Press
University of Essex
Wivenhoe Park, Colchester, CO4 3SH
sarahm@essex.ac.uk
Phone: 01206-873561

Appendix III: Interview Questions

- Tell me about yourself – position, background, relevant training etc.
- What is organised crime?
- What are the main threats and / or priorities regarding organised crime in the region/country? Why?
- How would you describe organised criminal groups in the region/country? (level and type of organization/hierarchy, areas of activity, level of specialization, national/transnational character, stability over time etc.)
- What were the main organised crime problems during the communist/transition period? How have these affected the current state of affairs and the phenomenon of organised crime in Romania?
- What are the causes of the phenomenon of organised crime?
- What are the main obstacles in the effective fight against the phenomenon of organised crime?
- What role do you consider corruption has in terms of organised crime in Romania?
- How does the magnitude of the organised crime phenomenon in Romania compare with other Western and/or Eastern states? What about the typology of the organised criminal group?
- What are the specifics of the organised criminal phenomenon in Romania? What types of crimes /unique ways of organizing or operating exist? (eg on cybercrime or green crime, at the EU's external borders, etc.)
- What is the level of violence associated with organised groups in Romania?

- Are there foreign organised criminal groups operating in Romania? Why yes / no? (If yes) In what areas of activity?
- To what extent is there international collaboration in preventing and combating organised crime?
- To what extent does organised crime represent a threat to Romania's national security?
- How do you think the fight against organised crime in Romania could be streamlined? Legislative changes? Providing additional resources? (If so, what type?) Improving international cooperation?
- What other methods (apart from effective combating by detecting and punishing criminals) could contribute to lowering the level of organised crime in Romania?
- What do you think will be the main problems of organised crime in Romania in the next 5-10 years? How do you think this phenomenon will evolve?