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FINANCIAL CRIME TODAY: GREECE AS A EUROPEAN CASE STUDY

ABSTRACT. In this article a spectrum of financial crime, ranging from Customs violations, EU fraud, tax evasion, Stock Market fraud, illegal use of intellectual property, electronic and Internet crime, to environmental pollution, illegal trafficking of personal data, and corruption is illustrated by examples from Greece. Needless to say, that the phenomenon of corruption and financial crime is creating problems not only in Greece, but also in other European countries and at higher financial levels.

KEY WORDS: computer crime, corruption, economic crime, fraud

In recent years, there has been the feeling that in general, crimes committed in Europe and other developed countries elsewhere have acquired a clear financial focus, the main goal being the acquisition of economic wealth. Even in cases where a crime is committed for a seemingly negligible amount of money, the motive will still be shaped by financial considerations, any envisaged benefits being proportional to the offender's perceived personal needs as well as to his present situation, such as theft committed by a drug addict in order to secure payment for his fix.

However, it is more often the case that this kind of criminal offence aims not so much at fulfilling urgent needs critical to survival, but more at achieving a higher standard of living that in turn corresponds to the image of the financially 'successful'; a stereotype forcefully promoted by the media as the desirable 'lifestyle' to adopt in modern developed societies. Although these developments are connected to the adoption of more sophisticated criminal methods, they have not hindered the simultaneous increase of violent crime in recent years. Violent crime has also taken on a profit-gaining bias (such as robbery), rather than being directed by more traditional morality, such as the avenging of injured honour.

It could comfortably be claimed that the general trend for securing fast and easy profit is widespread in developed societies today, permeating deep within their cultural mores, to the extent that it even affects the kinds of crime committed. Furthermore, according to Merton's theory, it becomes evident that as the opportunities for securing this socially important goal become fewer, so the likelihood of potential criminals being tempted to use a wider range of illicit or illegal means to that end increases. This is

European Journal on Criminal Policy and Research **9**: 197–219, 2001.

especially true when the crime committed incurs relatively little damage to each of its potential victims and is in turn difficult to trace.

In view of the above and also of the trend to increasing globalisation, it would not be an exaggeration to claim that there has been an explosive increase in financial crime in Europe and developed countries elsewhere over recent years. However, this view is difficult to support from a scientific point of view, as it is hard to determine the exact meaning of the term 'financial crime'. [In this context the term is mainly used to denote crimes which have a serious bearing on the proper working of the economy or on its related branches.] In addition, whatever data is available from the police, or from judicial records, is usually only the tip of the iceberg. Many cases of financial crime are settled out of court or never followed up, a fact usually due to the unwillingness of the victims to take legal action, thereby avoiding their possible conflict with the financially powerful (see Courakis 1998, p. 57). Moreover, rather than representing a real increase, the upward curve shown by these kinds of crime may also be due to the fact that legal authorities have prioritised their importance and have intensified their legal actions.

Furthermore, there are new, elaborate forms of financial crime which are difficult to trace. Even if and when such crimes are uncovered, it is sometimes hard to prove that they are indeed in violation of existing laws. Serious financial crime of this nature consists mainly of (a) organised Customs violations (e.g. illegal trading of fuel), (b) illegal cashing of subsidies from EU accounts ('euro-frauds') (c) several advanced methods of tax evasion (creation of offshore companies), (d) defrauding of Stock Market investors, (e) illegal use of intellectual property (books, cassettes etcetera), (f) electronic and Internet crime, (g) violation of employment regulations, 'acts of unfair competition', environmental pollution, illegal trafficking of personal data, and finally, (h) in the political sector, illegal transactions relating to the protection of certain economic interests and improprieties committed within the framework of banking corporations or state-owned organisations. More particularly, we shall take Greece as a typical example of this evolution to illustrate this.

Customs Violations

Customs violations have become the most commonly practised of financial crimes reported in recent years, following the abolition of border controls at the Common Market borders, implemented in Greece by EU Law from 1 January 1993. There is also exploitation of the brief and sampling checks now in place in EU countries in line with regulation L-

302/19.10.1992, 2454/93. Illegal trade is mainly in cigarettes, beverages, food and fuel. In 1998 alone, the Department of Prosecution of Economic Crime, known in Greece and referred to hereafter as SDOE confiscated 5,582,821 contraband packets of cigarettes (see SDOE 1999, p. 45). In general it is estimated that the percentage of these cigarettes is up to 6% of the total domestic consumption (which represents losses of 19.1 million euros from the National Budget). Furthermore, the majority of such contraband goods are imitations resulting in a proportional decrease in quality (see SDOE 2000, pp. 12–13).

A similar situation can be observed in the illegal trafficking of alcohol, which, due to especially high consumption taxation (8.8 euros per litre), is the primary target of smugglers, who use a variety of methods (e.g. fraudulent documents permitting the exportation of alcohol to foreign countries – alcohol which is eventually distributed in Greece, tax-free, as well as the creation of 'shop-front businesses' that declare bankruptcy before duties can be collected).

An area that has assumed particularly large dimensions over recent years is the trafficking of various petrol products and shipping fuel. The main reason for this phenomenon is that the kind of (untaxed) petrol supplied to open sea-faring ships, fishing boats and yachts sailing under foreign flags can readily be used as petrol for automobiles. Therefore, it is often the case that open sea-faring ships have supplied false documents detailing stops at Greek ports for the alleged purpose of delivering petrol, when in reality they are nothing more than ghost ships that never touch Greek shores. The untaxed petrol acquired in this way (up to 70% decrease in value) is passed on to their 'suppliers' who have the co-operation of various fuelling stations. Similar are the cases of fishing boats which acquire three or four times the legal amount of untaxed petrol for the purposes of consumption, or with luxury boats which are registered under the guise of ocean liners, and which sail under foreign flags. They are known in the language of the trade as 'boat-ocean liners', since the amounts of fuel appropriated could satisfy the demands of an ocean liner (see *Kyriakatiki Eleftherotypia*[1] 25/02/96, p. 70; *Typos tis Kyriakis* 02/06/96, pp. 52–53). A characteristic example of this kind of fuel trafficking can be seen in the 1994-case which concerned a well-known petrol company's provision of five fraudulent supply permits to open-sea liners in the port of Piraeus, when, in fact, no petrol was really supplied. During the opening trial procedures the accused,

[1]Newspapers in Greek (*Kyriakatiki Eleftherotypia*, *Typos tis Kyriakis*, *Eleftheos Typos*, *Ta Nea*, *To Vima*, *Kathhimerini*, *Ethnos*, *Exousa*) are used as sources throughout this article.

amongst whom were three Custom officials, were sentenced to 14–18 months' imprisonment, while the loss to the Greek State through tax evasion was estimated at about 17,000 euros (*Eleftheros Typos* 14/01/2000, p. 25). A similar case of fuel trafficking involving yachts under foreign flags was recorded between the years 1992–1995 and subsequently dealt with by the Greek Supreme Court of *Arios Pagos*; (AP 516/1998, *Penal Chronicles* 1998, p. 1098). The charges against the accused were dropped due to lack of sufficient evidence and also to the fact that five years had elapsed from the time the crime was first brought to the attention of the legal authorities. Conversely, the Arios Pagos convicted two Greek nationals accused of theft and trafficking with co-operating with the truck drivers of a Yugoslavian company, who, instead of conveying their cargo from Greece to Yugoslavia, conspired to undertake the safekeeping of large quantities of untaxed *mazout* in their tanks and, in turn, its distribution throughout the Greek market (AP 1048/1993, *Penal Chronicles* 1993, p. 814).

EU Fraud

Similar are the cases of fraud-related crime committed against the interests of the EU, often in the form of organised crime. Offenders exploit subsidies given to countries exporting European goods to non-European countries, or those receiving subsidies intended for the cultivation of some agricultural crop, development projects or educational programmes carried out in an EU country. Certain illegal cashing-in of these subsidies, usually accomplished by falsifying the original documents, have already occupied Greek courts, in most cases resulting in bills of indictment. In a similar vein, other types of fraud include the fraudulent acquisition of subsidies from the alleged difference between the price of collection of hard wheat and the price of distribution to the mills (AP Council, 1414/1985, *Penal Chronicles* 1986, p. 307), the fraudulent acquisition of community subsidies under the name 'reinforcement of consumption', concerning quantities of oil (AP Council, 803/1991, *Penal Chronicles* 1991, p. 1184 – see also AP Council 1568/1983, *Penal Chronicles* 1984, p. 516), as well as the fraudulent acquisition of subsidies gleaned from the alleged exportation of Greek wheat, by sea, supposedly destined for Madeira (Court of Appeal in Athens, Council, 2867/1992, *Penal Chronicles* 1993, p. 1167).

A characteristic example of this type is exemplified in a case where nine producers of ready-made clothes in Drama illegally acquired around 2.9 million euros, from subsidies intended to create new jobs. This was done by firing their personnel, only to rehire them under the guise of a newly

created company, complete with new name! (see SDOE 1999, p. 27; *Ta Nea* 19/05/1999, p. 51). Another significant type of fraud perpetrated against the EU, which concerned the European Court as well as the Greek Courts, is that uncovered in the well-known case of the Yugoslavian Corn, namely the illegal avoidance of paying taxes to the EU when a product of non-European origin is imported to a EU member country. In this case, the offenders presented false lading papers to the Greek Custom authorities, claiming the origin of a Greek cargo of corn as Yugoslavian. This corn was eventually sold to a Belgium company; to a member of the then EEC, resulting in the non-payment of importation taxes (see AP 610/1994, *Penal Chronicles* 1994, p. 749 and collection of legal precedents of the European Court 1989/7, pp. 2965–2988). Of a similar ilk is the case of a merchant who was found guilty of contraband activities and violation of rules concerning external trade after importing ready-made clothes of Indian origin as allegedly coming from England, a member country of the then EEC. As such, the articles had an inflated purchase price in comparison to the real one, with the result that a lower level of import duty would be levied (AP 211/1992, *Penal Chronicles* 1992, p. 414). To counter such cases of fraud, the EU created a special Office of Coordination (OLAF, formerly known as UCLAF), which issued Council Regulation No. 2988/18.12.1995 'for the protection of the economic interests of the EEC' (EEC press release L 312/1–4) cf. also Council Regulation No. 2185/11.11.1996, EEC L 292/2–5), and implemented on 26 July 1995 a Convention with similar objectives to be signed by the Member States (C 316/49–52 in the Greek edition), and presented a related integral plan of penal rules, the so-called *Corpus Juris of Penal Rules for the Protection of the Economic Interests of the EU* (Greek ed. published by A.N. Sakkoulas, 1999). For further information in this area see Courakis (1998).

Tax Avoidance and Evasion

Modern organised crime also seeks fraudulent gain through certain innovative methods of tax avoidance and evasion. While the classic approach to tax evasion still focuses on avoidance of taxation by issuing incorrect or incomplete tax data or by not issuing tax declarations at all, the more sophisticated tax evaders tend to operate within the framework of the law, exploiting the law's shortcomings and loopholes. One such method is the establishing of offshore companies. An estimated 37,000 companies have already been established in Cyprus alone, and their number is increasing steadily, in line with other countries which have come to be dubbed as 'tax havens'. These not only include the Bahamas, the Cayman Islands and

Bermuda, but also European countries such as Switzerland, Ireland, Luxembourg, the Isle of Man and Ceuta of Spain (see Pan Liakos, 'Tax Havens', in the Greek magazine *Maxim*, October 1999, pp. 72–77).

In general terms, these companies share certain basic features. Their head offices are in countries where they are not active, preferably in countries whose law and taxation regime is especially favourable. Income tax in these tax havens is relatively insignificant. Not only is it calculated on pure profits, but it is only levied on the particular financial activity of the company. In addition, there are inter-state agreements to avoid double taxation of offshore companies. In Greece, in particular, offshore companies are used increasingly either to buy real estate and boats, or to facilitate trading activities such as acting as intermediaries in imports and the buying and selling of goods. According to SDOE 2000 (p. 71), offshore companies provide a number of extremely attractive advantages to their users. They may be registered in the name of one shareholder only, for whom complete anonymity and bank secrecy is guaranteed. In addition, they are not subject to regulations that require the declaration of the source of the income when buying cars or yachts. This extends to income obtained abroad, for which no tax need be paid. Similarly, transfer tax, inheritance tax, gift tax and parental gift tax are not levied. Furthermore, companies are under no obligation to keep books or issue related data. Taxation is levied on income derived from real estate only.

Equally attractive is that offshore companies allow the transfer of profits from high taxation to low taxation countries (the Board of Directors may convene anywhere in the world), and have low administrative costs. Not surprisingly, offshore companies are being used increasingly as intermediary links for the purchasing of goods from countries of the EU, so that a significant portion of the profits of the importing Greek company remains at the head office of the offshore company (which is under the control of the Greek company) where it is taxed at minimal rates. So instead of the Greek company buying goods directly from a company of the EU, it buys from the offshore company, who, in turn, buys from the EU company. In addition, offshore companies facilitate the sale of goods to countries outside the EU. For example, a Greek company may sell goods to an offshore company, which then resells the same goods to a foreign company at a tidy profit, resulting in a significantly higher market value of the goods. Part of this 'inflated value' comprises an additional profit for the Greek company, since it is taxed again at a minimal rate. Thus, it is not unusual to observe the overvaluing of such goods for export and, conversely, the undervaluing of the same for import. Finally, those wishing to buy real estate in Greece are also known to exploit the beneficial tax status of offshore

companies. While declaration of import of foreign currency is required for such transactions, the origin of this money is rarely questioned.

Those privy to offshore company know-how eventually pay less in tax than other Greek taxpayers for what are, essentially, similar trade activities. The obvious inequality that this situation creates is only one aspect of the problem. Another is the substantial loss of revenue in taxes to the State through both the types of trading practices and the transfer of property through offshore companies as outlined above, and not to mention the fact that criminal elements, using the latter method in particular, are able to 'legalise' (launder) their illegal gains from criminal activities such as gun-running and drug trafficking. For these reasons, many countries such as the USA and France have taken strict measures to curb offshore company activities. However, it is clear that excessive control may backfire. There will be investors who are not necessarily involved in criminal activities and who, finding the idea of a tax haven more attractive, will remove their capital from Greece, or other similar countries, to the detriment of the national economy. Thus, it is vital to find a balance, in co-operation with other European countries, whereby suitably rigid measures can be implemented, which will protect the interests of the State without discouraging investors.

Stock Market Fraud

Underhand methods of investing in the stock market add yet another dimension to modern economic crime. In recent years, due to the significant turn by investors to equities, many involved in the Stock Market have successfully exploited the reasonable expectations of this public for a quick and easy profit. In its commonest and coarsest form, the perpetrator, who, as a rule, has convincing persuasive skills, secures the friendship and trust of unsuspecting investors from whom he takes untraceable amounts of money for investment in the so-called 'super return investments', which will, allegedly, double the original investment several times over in a very short time. In many cases, he uses the services of some of the 700 so-called ELDE Companies (Companies of receipt and transfer of orders), which have recently flourished in the Greek Stock Market. At other times, he does not hesitate to use bogus bonds or certificates of credibility from reputable firms to present a more convincing scenario. Thus obtained, the investors' money is sent to banks abroad or to offshore companies where, due to the anonymity involved, it is untraceable. Following certain cases in Corinth and other places, this method is described in detail in a report by SDOE, which was compiled by the journalist B.G. Lambropoulos (*To Vima* 03/03/2000, p. A20).

A variation of these methods is where the perpetrator convinces potential investors that with the help of institutional investors, they will receive a large number of newly floated shares and that they will enjoy privileged treatment in return for some commission. The investors initially enjoy some profit from the thousands of shares, which have, allegedly, been bought on their behalf. In practice, the investors are not informed as to which shares they have bought. Neither do they check their orders. Consequently, the investors' money disappears together with the perpetrator (*To Vima* 02/03/2000, p. A15). In certain cases, however, the perpetrators are apprehended, as was the case with a broker in Tripolis (*Eleftheros Typos* 01/07/1997, p. 28; *Ethnos* 06/04/2000 for the case of two persons who embezzled about 4.9 million euros).

More refined forms of Stock Market and/or Stock Market related fraud are found in cases of the illegal use of confidential information, the creation of pyramids, and the manipulation of shares in the Stock Market. In the first case, insider trading (see Article 30, Greek Law 1806/1988 and Presidential Decree 53/1992), perpetrators commit a penal offence when they use confidential information which they are privy to due to their position, the services they render to a company or due to their profession for their own profit. According to the law, in this case it must be shown that this information can substantially affect the value of the shares and that *bona fide* investors are not only unaware of it, but also in no position to know of it (see related study by N. Livos reviewed in *Nomiko Vima*, 38, pp. 45–58, 1990; *Kathhimerini* 16/03/1997, p. 51, where there is an article about the first penalty of about 4.4 million euros, imposed by the Committee of the Stock Exchange for insider trading). In the second case, that of the pyramids, the system involves tens or hundreds of small investors, each one of whom tries to make money by mobilising other investors to join the scheme. Such a case caused a particular outcry in Thessaloniki some time ago, when thousands of people received cards and leaflets promising quick and easy money. According to the instructions, whoever received a card should deposit about 73 euros, in a certain bank, whereupon he would receive three similar cards to distribute to persons known to him. These three people would, in turn, repeat the operation. The initiator of the scheme would collect the bounty if and only when a chain of 2541 people had joined within six months. Eventually the 'game', which was, in effect, a fraud, involved 20,000 people! (*Ethnos* 21/01/1997, p. 22; *Exousia* 23/01/1997, p. 23). In Albania the extent of the 'pyramids' was more far-reaching. Attracted by the huge 70% interest rate, players made a staggering number of one million agreements between 1992 and 1997 with Bechbi Alimoutsa, owner of the 'Vefa' Bank. Alimoutsa's example

quickly found imitators in many Albanian banks, while 'pyramids' started to appear for those who did not have any initial capital. The initial investors brought new investors. They could then take their profits and leave, or leave their money in the bank instead of taking out shares. Few, however, withdrew their money. The majority proceeded to reinvest until the system floundered and collapsed, with tragic consequences. As much as two billion dollars – 40% of Albania's GNP – disappeared overnight (*Exousia* 18/02/1997, p. 7; *Kathimerini* 13/07/1997, p. 19).

Equally dangerous, the third case concerns the manipulation of shares in the Stock Exchange. Here, rumours are elaborately leaked in Stock Exchange circles about some impressive but unsubstantiated information concerning the future performance of a certain share. As a result, demand for that share shoots up and its value rises. Whoever is party to this manipulation already owns a large number of shares, which are sold when prices are high. This mass selling usually affects the collapse of the share, with the consequent loss of money belonging to those who were naïve enough to invest in the share and not sell early. It should be noted that in recent years prospective investors have access to these rumours via the Internet, without, of course, being able to cross-examine the credibility of the information. Having been convinced and in anticipation of future gains, they duly go ahead and invest (*To Vima* 30/05/1999, pp. D18–D19).

In Greece this problem has occupied experts (see study by L.N. Georgakopoulos and N.L. Georgakopoulos reviewed in *Nomiko Vima,* 47, p. 89, 1999), as well as the courts, as in the case of the company 'L.'. Eleven employees of this company (including brokers, business people and shareholders) were charged with endeavouring, through illegal means, namely inside information, to boost the price of shares within four months (from September 1993 to January 1994). Since this increase was not based on the financial performance of the company, the share collapsed. Eight of those charged were convicted, after a three-month hearing, to sentences of one to two years – which could be bought off – and to fiscal penalties reaching a total amount of about 246,000 euros; an amount substantially smaller than the losses incurred by investors and/or the profits which certain persons collected (*To Vima* 26/01/2000, p. B5). A similar case is presently awaiting judgement. This involves the case of the firm of brokers 'D.C.', which, according to the report issued by the Stock Exchange Committee, is alleged to have championed the artificial rise and consequent vertical fall of the value of shares belonging to the companies 'M.' and 'P.', resulting in their going bust on 6 November 1996, to the order of about 7.6 million euros (*Exousia* 26/05/1997, pp. 31–33; 09/11/1996, p. 33; *To Vima* 10/11/1996).

Of course, such underhand methods of investing in the Stock Market serve only to detract from the positive functions of the Stock Exchange and tarnish its reputation. For these reasons, this kind of fraud should be dealt with drastically, by imposing penalties and fines the severity of which would outweigh the potential gains. On the other hand, it is clear that those involved in the Stock Exchange, in particular those involved with the most volatile but most profitable investments such as commodities, are well aware of the risks involved and cannot claim to have been 'deceived'. There are cases where those accused of fraud of this kind were found not guilty (AP Council, 241/1990, *Penal Chronicles* 1990, pp. 1024–1025; AP Council, 323/1991, *Penal Chronicles* 1991, p. 965). The first of these decisions accepted the reasoning of the appellate ruling that "the accuser knows that by speculating on the Stock Exchange for the purpose of gaining substantial gains he was risking the loss of his money". Opposing points of view concerning these cases were also voiced by A. Psarouda-Benaki, *Penal Chronicles* 1989, pp. 146–156 (in line with the decision of the order), and by Dion. Spinellis, *Penal Chronicles* 1988, pp. 660–669.

Intellectual Property Crimes

Another type of financial crime concerns the illegal use of intellectual property. This problem is chiefly evident in the illegal use and reproduction of sound, such as CDs. Such problems were of little significance in the 1970s when vinyl discs were in general use and difficult to copy. Later, however, with the advent of magnetic tapes, the copying and distribution of music, mainly popular songs, became a simple procedure. The extent to which this practice became so widespread was such that the Supreme Court of Arios Pagos ruled that due to lack of any precedent in law, the production of forged cassettes, their packaging and distribution as authentic copies, comprises, amongst others, the offences of forgery to the degree of felony, and of fraud, also to the degree of felony (AP Council, 462/1983, *Penal Chronicles* 1983, p. 820 and related study by Abr. I. Stathopoulos, *Penal Chronicles* 1984, p. 767). In 1993, with the new law of intellectual property, based on a Community Directive (250/91), the matter was regulated in a more complete way (see Art. 66 Law 2121/1993). The penalties of felony are now implemented only when the perpetrator illegally uses the intellectual property of another repeatedly, by profession, or under circumstances that show the perpetrator as being especially dangerous.

However, technological developments have advanced with such rapidity and to such a degree of sophistication that the provisions of the latter law are proving increasingly inadequate. CDs now dominate the music mar-

ket and are just as easy to copy as cassettes were. In addition, they can be copied to a much higher degree of sound quality and durability. Not surprisingly, thousands of these illegally forged CDs, the majority of which had been made in formerly Socialist countries, mainly Bulgaria, flooded the Greek market in the 1990s at prices of up to three times lower than the normal market price. Between 1998 and 1999 alone, 174,938 forged CDs were confiscated in Athens and the surrounding area, while according to a report of the Union of Greek disc producing companies, the total sum of the illegally distributed CDs in Greece exceeds 7 million annually. This figure represents a staggering third of all CDs sold in Greece, generating revenue to the tune of about 38 million euros, with the corresponding loss of taxes to the State (*To Vima* 27/02/2000, pp. 14–15; *To Vima* 15/03/2000, pp. A22–23).

However, the problems related to intellectual property, especially in the field of music, have become even more acute in recent years due to the development of the Internet, which offers unlimited scope for the trafficking of musical files and information. Users can simply download any piece of music they so desire and store it in their hard discs. The main music portal in the Internet is the popular MP3. With over 100,000 visitors daily, more than 2,000,000 songs are downloaded each month from this address alone. This phenomenon obviously causes incalculable damage to music companies and to those who collect royalties from the legal circulation of CDs. For these reasons, companies have taken steps to counter their losses.

These practical measures include establishing 'codes' through which access to intellectual property can be made, as well as the installation of special systems, which will watch the movements of users when they try to open or download a musical file (*Typos tis Kyriakis* 09/01/2000, p. 21). Furthermore, the International Federation of Music Companies (IFPI) has taken various legal actions against offenders, including a Greek user. What it is aiming to do, is to impress upon the general public that the creation of a web site using the compression method MP3, without having the right to do so, regardless of the content of the site, even if it is for personal use, is, in fact, a punishable offence (in Greece, Law 2121/1993) (*Kyriakatiki Eleftherotypia* 06/02/2000, pp. 50–51; *To Vima* 06/01/2000, p. A30). Despite efforts by companies to track down and hinder those using the Internet fraudulently, users are not deterred and overcome obstacles with relative ease. This was apparent in a recent case where a 16 year old hacker managed to 'crack' 400 code keys that protected the contents of the most technologically advanced systems to date, namely the digital discs containing film, known as DVDs. Not only did he infiltrate the system, he also made public the algorithm of the encryption involved over the In-

ternet, thus facilitating the copying of DVDs by anyone who desired to do so (*Eleftherotypia* 29/09/2000, p. 16).

Naturally, this 'piracy' of items protected by the regulations to safeguard intellectual property is not only confined to music and films stored in DVDs. Movies, any kind of films or programmes broadcast by the television are also potential targets, along with several commercial items, such as IT software, for example the programme 'AutoCad' for technical offices; clothes, perfume, watches, and cigarettes (*To Vima* 15/03/2000, pp. A22-23). Some six years ago, the prosecutor of the Supreme Court of Arios Pagos issued an austere circular (No 2387/ 26/10/1994), the aims of which were to accelerate the prosecution of those responsible for illegally broadcasting TV films and to facilitate the immediate arrest of the accused. It is no secret that these matters formed the subject of top-level talks between the leaders of Greece and the USA (*Kathimerini* 16/02/1997, p. 19; *Typos tis Kyriakis* 09/01/2000, p. 68). However, the consequences of these offences are relatively painless in comparison to the financial gains, and, if one applies the logic of 'cost–benefit analysis'; they do little to discourage the continuation of such activities. Furthermore, the general public does not regard the usurpation of intellectual property in the same light as they do the theft of other forms of property. There seems to be a general tendency to perceive intellectual property and 'information' as common property (as belonging to the public domain), there for the benefit and advancement of civilisation as a whole. Further aided by the extensive spread of the Internet, access to any kind of information has become a simple, routine matter. Thus, any campaign or legal measures against 'piracy' in the realm of intellectual property are bound to encounter problems in the future.

Electronic and Internet Crimes

Technologically advanced computers and the Internet provide offenders with state of the art means to commit offences with little or no risk of detection and apprehension. In most cases these offences originate from inside a company and are committed by employees who tend to be discontent or who are deliberately seeking financial gain. They channel company secrets to competitors (electronic espionage) or proceed to blackmail the company. Often, though, these offenders belong to the category of the so-called 'hackers'; users who work in other spheres and who manage to infiltrate electronic systems, accessing information or changing it. Initially, and in many cases at the present time, these 'pirates' of software are content to interfere with systems for fun, for self-satisfaction and/or simply

for the sheer pleasure of solving a challenging problem, such as cracking a code. In addition, another basic motive was, and for many, still is, to confirm their belief that information in cyberspace should be free and accessible to all, without censorship, owners or rights. This view has been accepted on occasion by the American courts (*To Vima* 28/12/1997, p. 36, and by the Greek courts, e.g. Athens Court of First Instance, decision 2439/1995, reviewed in *Nomiko Vima*, 44, p. 237, 1996).

A typical example of this seemingly 'naive' mentality is the case of America's most legendary hacker, Kevin Mitnik, who, in 1995, managed to infiltrate the firing system of NASA's missiles and send a warning to NASA's staff, indicating the most vulnerable points of its network. However, he did not go so far as to endanger the system's security by, for instance, launching a missile. However, in recent years, hackers seem to be increasingly moving away from having fun to indulging in other kinds of activities designed either to have a direct economic impact or to cause offence. Most impressive was the disabling of some of the most popular commercial sites, such as Amazon.com, Yahoo, and CNN for a few hours on 7–8 February 2000. This suspension of access resulted in serious financial damage as customers tried in vain to order goods or access these sites. Yahoo, for example, is believed to have lost $500,000 in two hours. In this case, the hackers accomplished 'denial of service' by overloading the sites with useless data. In effect, small packets of data not seeking specific information arrived at the site, which in turn activated new packets of information until the system avalanched. In this manner, the hacker blocked the smooth flow of information processing, paralysing the sites (*To Vima* 16/02/2000, p. D14–46). Even more impressive was the recent case of a hacker who managed to copy data from the credit cards of 300,000 customers of the company 'CD Universe' (a company which sells CDs over the Internet), and subsequently threatened to publish them unless a payment of $100,000 was forthcoming. Following the company's refusal to succumb to this type of 'cyber blackmail', the hacker, presenting himself as 'Maxim from Russia', published the first names and addresses of the card owners through his site on Christmas Day, 1999. As a result, thousands of visitors to his site copied and used the data of 25,000 cards (*To Vima* 12/01/2000, p. A13).

Given that e-commerce reached $30 billion in 1999 alone (*Typos tis Kyriakis* 13/02/2000, p. 59), it is easy to appreciate the vast field of application open to abuse, and also the damage that can be caused. The situation worsens if one takes into account the difficulty of hunting down these hackers, whose operations usually leave no trace or who 'strike' using somebody else's computer. At the same time, companies are reluctant to

lodge complaints against these hackers, since they do not wish to appear vulnerable.

The report of the Commission of the European Union to the Council and the Economic and Social Committee at the end of 1999 (*To Vima* 28/12/1997, pp. 20–21) points out specific dangers posed by, and potential consequent offences committed by, means of misusing computers and the Internet. In more general terms, these offences can be categorised according to the following (cf. Rosé 1995 [Que-Sais-Je, No 2432]).

- *Matters of national security.* Areas of concern include the de-coding of military secrets, instructions for the construction of bombs or explosive mechanisms, the manufacture of drugs (for additional information see Bosi 1999, p. 229).
- *The protection of juveniles.* Areas of concern include misleading advertisements, violence and pornography. The well-known case of a Belgian pederast and murderer, who, in 1997 was also trafficking pornographic material showing juveniles over the Internet caused particular outrage.
- *Respect for human dignity.* This is threatened in material distributed over the Internet designed to incite racial hatred or other forms of discrimination.
- *The protection of personal privacy and integrity.* These include electronic sexual harassment and the illegal trafficking of personal data. (In Greece, Law 2472/1997 protects citizens from the processing of personal data – see also law 2068/1992 which validated the corresponding European Convention of 28/1/1981.)
- *The protection of private property.* These include areas such as the infection of software with viruses, out of malice, for competition or simply for 'fun'.
- *The protection of reputation.* For example, by defamation of character.
- *The protection of intellectual property.* This concerns the illegal trafficking of works protected by copyright, for example, in music and literature.
- *Matters of industrial espionage.* The main targets here are companies that produce high tech goods, such as computers, software or semi-conductors and pharmaceutical products.
- *The electronic theft of credit cards.* The danger here is the theft of the personal data of individuals who use credit cards for transactions with e-commerce companies. Their data may be used for blackmail purposes, or to conduct other transactions with banks and companies. The latter is one of the commonest forms of modern financial crime via the Internet

(*Kyriakatiki Eleftherotypia* 22/09/1996; 20/02/2000, pp. 96–97; *Ta Nea* 18-19/03/2000, p. 8).

- *Electronic theft of bank codes.* An example that serves to illustrate this danger is the remarkable case of Russian hackers who managed to steal the codes of customers of the American Citibank and transfer $10 million to an account abroad. The American authorities retrieved all but $400,000 of the stolen money and apprehended the perpetrators, who were subsequently expelled following a decision of the Federal Court of New York (*To Vima* 22/03/1998, pp. D27–39).
- *Matters of electronic fraud in stock exchange transactions.* This mainly occurs when investors using the Internet, e-mail and web sites are fed deliberately misleading information regarding the predicted behaviour of shares. For example, they may be led to believe that a share will rise due to some patent that the company has allegedly secured.

Regarding the above categories, the last seven are directly related to financial crime, while the rest are more indicative of how the fanatical or even perverted criminal mind can abuse the tremendous achievements of modern technology. Needless to say, the detection and apprehension of these criminals, who operate in cyberspace with ease and with a cunningness that erases all trace of their activities, poses massive problems for those committed to fighting the spread of electronic crime. However, certain organisations have already taken up the gauntlet: the Web Police, for one, which has offices in more than 450 cities all over the world and which operates under the auspices of the service of the 'United States of the Internet' (*Ta Nea* 18/15/1999, p. 26), as well as the American National Centre for the Protection of Infrastructure with headquarters in the FBI building in Washington. Its main task is the security and control of portals of strategic importance to the Internet (*Kathimerini* 07/02/2000, p. 29). As has already been noted, the Commission of the European Union has also taken initiatives to co-ordinate measures in European countries, related to which are decisions of the European Union which can be found at the sites http://europa.eu.int/eur-lex/en/lif/dat97/en-497Y0306-01.html and 1999/en-399DO276.html. At the same time, several regulations exist in the laws of each country, which give the courts the necessary sub-base for the penal suppression of electronic crime. Pertaining to Greece, penal matters that arise from the use of electronic computers are dealt with secondarily with Article 4 of Law 2246/1994 – concerning telecommunication – and primarily with law 1805/1988 – based on a prototype corresponding to German and other foreign regulations – which introduced new and important provisions into the Greek Penal Code. Those of interest here are Articles

370B and 370C of the Penal Code, which concern the illegal copying and illegal infiltration of computer systems, and Article 386A of the Penal Code, which deals with computer assisted fraud. The analysis and interpretation of these provisions has already been made in a series of interesting articles (e.g. G. Mouzoulas, reviewed in *Penal Chronicles*, 1990, pp. 778–784), or in studies (Mylonopoulos 1991; Vasilaki 1993; Kioupis 1991). For this reason, extensive commentary is not necessary here.

It is, however, remarkable that the Greek courts have already been involved in relevant cases and have dealt with them severely. In a case involving the illegal copying of software programmes, the Council of the Magistrates of the First Instance in Thessaloniki (decision No 3204/1993 reviewed in *Yperaspisi*, 1994, p. 1133), decreed that the defendant, a salesman of PCs, should be prosecuted for violating the provisions for illegal copying of software (Article 370C of the Penal Code), for criminal forgery and for theft of intellectual property. He had reproduced and sold to third parties a number of programmes with 'systems' to complete PROPO (the Greek football pools) and LOTTO (the Greek national lottery), as if they had been his own, when they had been created and produced by someone else. In another case, a clerk who had copied classified information from an insurance company and then sold it to a rival firm also faced prosecution in accordance with the decision of the Council of the Athens Court of Appeal, 217/1997, *Penal Chronicles* 1997, p. 876.

A further case appeared before the Supreme Court of Arios Pagos involving the chief teller of accounts, who was found guilty by the Court of Appeal of criminal fraud. He had, on 28 different occasions, deposited clients' money via the on line system of the bank, but had changed the actual dates of deposit to earlier ones (e.g. 01.01.1999 instead of 19.09.1999). In this manner he gained a total of 62 million drachmae in the difference of interest. The Supreme Court, however, deemed that this decision of the Court of Appeal was revocable, due to ambiguities and contradictions. The problem of electronic fraud has been the subject of at least three published court decisions. In the first, the defendants had been filing daily wages at a higher rate than had actually been paid in their computer system and then illegally cashed the difference (AP decision 1059/1995, *Penal Chronicles* 1996, p. 97; *Nomiko Vima*, 44, p. 504). A similar case appeared before the Arios Pagos (AP decision 1277/1998, *Penal Justice* 1999, p. 113). The third case concerned fictitious deposits of cash by bank clerks who had entered deposits into the bank's computer and who then cashed the money in cheques (Five Member Court of Appeal, Athens 678,751/1998, *Penal Justice* 1999, p. 817).

Other Financial Crimes

Of course, these brief references do not constitute an exhaustive list of financial crime in Greece. A plethora of relevant cases exist, some of which are directly linked to the activities of a company, and may exert a negative influence on the national economy or may violate the fundamental rights of citizens. The non-compliance of several companies with the provisions of the Labour Law has obviously created severe financial and social problems, even more so since from 1994, when competence for labour supervision was transferred to the Authorities of the Prefecture (for an exhaustive analysis, see Gavalas 2000; and the study of Manoledakis reviewed in *Law and Politics*, 3, pp. 65–96, 1982). Since then, the adherence to the legal number of working hours, regulations concerning hygienic working conditions and safety in the workplace, and the payment of the legal wages have slackened (*Eleftherotypia* 11/02/2000, pp. 24 , 41). In addition, decreased controls on the part of the competent Committee of Competition (Law 2296/1995, which modified Law 703/1977 for the control of monopolies, oligopolies and the protection of free competition) have adulterated free competition and encouraged the creation of 'cartels' by similar companies (*To Vima* 11/04/1999, p. D11). Furthermore, on 9 November 1999, at the Greek Committee of Institutions and Transparency, a committee comprised of MPs and under parliamentary control, the president of the Committee of Competition admitted that due to inadequate staffing the effectiveness of their operation: "is limited to investigating a percentage of 60% of the cases where companies have merged, and [. . .] thus, the application of rules in matters of mergers and the taking of undue advantage on the part of the dominant companies remains ineffectual" (*Kathimerini* 14/11/1999).

Provisions for the protection of companies from unfair competition have created similar problems, given that the relative laws are antiquated (under the provisions of Law 146/1914), and the provisional penalties are negligible. For example, according to Article 16 of the Law, the penalty for the illegal usage or betrayal of secrets by employees to third parties is imprisonment of up to six months and a fine of about 8.8 euros! These penalties are, however, rarely imposed by penal courts (for comments and jurisprudence of this Law see e.g. Rokas 1996).

The problem of environmental pollution, which has become increasingly evident since the 1970s, is but one adverse consequence of the ineffectual monitoring of company operations in Greece. While it is outside the scope of this article to make extensive reference to this massive problem, it should be noted that the penal punishment provided by the basic Greek Law for the protection of the environment (Law 1650/1986) is usu-

ally light and convertible. Despite the existence of this Law, law enforcement agencies are considerably hindered by the fact that up to this point in time, the regulatory provisions, of which there are more than 70 overall, have not yet been issued. These provisions include decrees, council of ministers' acts, ministerial decisions and other regulations, all of which are necessary for the complete application of the Law (see Papaneophytou 2000, p. 429). However, it is consoling that the courts frequently prosecute under Law 743/1977, for the protection of the seas (see e.g. AP decision 172/1977, *Penal Chronicles* 1998, p. 36, and from the earlier jurisprudence, decision 733/1984, *Penal Chronicles* 1985, p. 36, for the pollution of Geras Bay in Mytilini; but also the reversal, AP decision 213/1984, *Penal Chronicles* 1984, p. 787 on the pollution of the Bay of Patras; see also Courakis 1998, p. 296 note 80).

Furthermore, special mention should be made here again of the problem of the protection of personal privacy and integrity, in connection with electronic crime and the illegal trafficking of personal data, such as an individual's penal record, financial situation and medical history, an issue which has reached considerable dimensions of controversy lately. As the president for the Greek Independent Authority for the Protection of Personal Data (Law 2472/1997) underlined: "Nowadays we live in a society where anyone can electronically access information on anyone else. Although we have managed to control, to a greater or lesser degree, our state services, it is utterly impossible to control which companies maintain data bases storing personal information and how they use them" (*To Vima* 12/01/2000, p. A19; *Ta Nea* 15-16/05/1999, pp. 72–73). Cases are usually in relation to companies who collect and maintain large databases concerning particular information and the preferences of their customers. The intention here is either to use these data in order to promote their products more effectively, or to supply them – for a fee or other kind of exchange – to other interested parties, such as lists of addresses to candidate MPs. The same problem exists, although with a different aim, at an international level, for national police services to monitor private communications, e-mail and satellite telephone networks, without having previously obtained judicial permission (Enfopol plan – see *Eleftherotypia* 16/03/1999, pp. 7–9). With access to these data, the nightmarish scenario of Orwell's 'Big Brother' may very well have already started, albeit imperceptibly, to become fact.

Corruption

Perhaps the most important manifestation of financial crime, at least from the point of view of damage to the national economy and social morality,

is that concerning illegal transactions of politicians for material or other kind of gain, which has been termed in Greece, since 1993, 'interwoven interests'. In a similar vein, there is also the problem of corruption, where political or State officials use their power in unfair ways, such as nepotism, arbitrariness and bribery, for personal gain. In Greece this corruption started to become a problem corroding public life and public services mainly in the 1980s. In a special supplement of the magazine *Epikaira* 02/07/1987, entitled 'Corruption in Greece', 100 scandals, frauds, thefts and other illegalities were briefly presented. Similar data are included in Lampsas (1988), where a presentation of 200 cases of scandal follow the Appendix; see also Koutsoukis 1988, p. 151 and note 56.

In the grip of this discussion about 'scandals' and the demand for 'catharsis' called for by different political parties, certain cases were brought to trial at the beginning of the 1990s, mainly with the charge of damage of property held on trust (Article 390 Penal Code). Some of these cases concerned charges of mismanagement by high standing executives or members of Executive Councils of Banks, such as the National Bank (the charge concerned the accommodating settlement of some company's debt; the case was eventually shelved in the archives: No C-90-1503/13.07.90 by order of the Athens Public Prosecutor in Anagnostopoulos 1996, p. 61), the Bank of Central Greece (for the financing and issuing of letters of guarantee in favour of an insolvent company – acquittal decision Council of AP 786/1993, *Penal Chronicles* 1993, p. 544), the Bank of Crete (also for the issue of letters of guarantee in favour of an insolvent company, in this case the company 'Pyrkal' – acquittal decision Council of the Court of Appeal, Athens, 2863/1992, *Penal Chronicles* 1993, p. 303), and the Mortgage Bank (charged with the disadvantageous settlement of the debt of the 'Plepi Coast Company', acquittal decision Five Member Court of Appeal, Athens, 633/1993, in Anagnostopoulos 1996, p. 51).

Trials of a similar character took place concerning contracts for weapon systems such as 'Mirage jets', where, according to the charges, these systems had been found faulty (acquittal decision Court of Appeal, Athens, 524/1992, *Yperaspisi* 1993, p. 101); for the purchase of Aircraft by Olympic Airways, despite the fact these planes could not be profitably included in the company's budget (acquittal decision Court of Appeal, Athens 1429/1992, in Anagnostopoulos 1996, pp. 85, 88); as well as a case concerning OTE (Greek Telecommunications) for the purchase of digital telephone lines and circuits, without previously having requested tenders (acquittal decision Council of the Court of Appeal, Athens 2359/1992 and 597/1993 in Anagnostopoulos 1996, p. 58). In addition, was the case of the Pyrkal weapons industry, which sustained damage estimated at about 7.6 million

euros (in 1986), due to a ruinous contract with Iraq. The verdict was acquittal (Three Member Court of First Instance, Athens 7727/1993, in Anagnostopoulos 1996, pp. 50–51, 60). In all the above cases, it was decided that the accused should not be impeached for the acts of mismanagement which they had allegedly committed (the accepting of bribes and perpetration of acts of corruption was not even an issue), or that in the case of impeachment, they should not be convicted for these charges. Seen in this light, it is not difficult to explain the fact that according to Article 36, Paragraph 2 of Law 2172/1993, the relevant provision for damage of property held on trust (Article 390 Penal Code) thereafter fell into disuse officially, since it is henceforth necessary to prove direct intent – *dolus* ('knowingly') and not simply presumable intent for its application, as was previously the case.

To a certain extent, this development is justified, in that capable managers should not be discouraged from taking executive responsibilities for fear of repercussions of a legal nature and/or of a political character. On the other hand, the weakening of the provision concerning damage of property held on trust came at a time when much was being heard about improper procedures for the tendering of public works, as well as for the manner in which armaments, material for telecommunications and such like were being supplied to the Greek State. Thus, the existence of a strict and above all enforceable Law, reinforced with the provisions of international treaties against corruption, so that such cases can be prevented as much as possible, is sorely needed (*Typos tis Kyriakis* 14/11/1999, p. 52).

Hence, the State has organised a concerted effort at several levels to combat the spread of financial crime in Greece in recent years. One initiative has been the founding of a Section for the Prosecution of Financial Crime (1985) under the Direction of Security in Attica. With its staff of 55, it has already dealt with serious crimes, mainly cases of forgery, fraud, customs offences and offences against intellectual property (for more detailed description of the activities of this department see *To Vima* 10/03/2000, pp. A22-A23). Another development was the implementation of the 1450 strong Department of Prosecution of Financial Crime (SDOE), under the auspices of the Ministry of Finance in 1997. This service was established under Law 2343/1995 (Art. 4, also see the organisation of SDOE Presidential Decree 218/1996; Regulation of Operation in Presidential Decree 154/1997). It mainly deals with the preventive investigation of the proper application of tax provisions and customs laws. Yet, it also deals with the tracking down and prosecution of financial and other related crimes. These range from drug trafficking, and gun running to the viola-

tion of laws concerning the national currency and the legalisation of revenue from criminal activities. Thus, the SDOE covers an especially wide field of operations. In the area of crime investigation its various activities include the control and investigation of transport, the verification of documents, arrests and interrogation of offenders. From the reports of this service for the years 1997, 1998 and 1999, it is clear that the work accomplished here is of particular importance. On the financial side, the profits for the State, mainly from the tracking down of tax evasion cases, appear to greatly exceed the total cost of the operation. In 1999, this was about 44 million euros (the corresponding profit for the same year, counted as surplus to the State budget, was expected to exceed 1.465 billion euros – see SDOE 2000, p. 37). Finally, the Public Prosecution also plays a leading role in combating the spread of financial crime – in the sense that a Public Prosecutor supervises the SDOE. Furthermore, at the beginning of the 1990s, the prosecution of the Court of the First Instance of Athens had organised a so-called 'pre-interrogation section' in order to track down corruption and/or financial crime in public offices, such as building authorities, forest departments, public hospitals, the police and the tax office. Initially, this was an informal procedure, later it became a provision in the Regulation of Operation of the Public Prosecution. Within this latter framework, the section had dealt with weighty judicial investigations, such as acts of violation of public land and forest. However, in time, the activities of the section lost impetus, mainly because the 100 strong staff had other parallel obligations to attend to; in particular the evaluation of 200,000 law suits a year and the participation in Judicial Councils and hearings. However, all indications point to the establishment of a special office in the near future, which will deal with financial crime – mainly money laundering – (by credit companies, casinos and the stock market), and corruption (*To Vima* 01/12/1996, p. A45; 04/04/1999, p. A50; 05/12/1999, p. A61; 23/01/2000, p. A49).

Obviously, the task of all such organisations is especially difficult. In order to 'tie up' a judicial case, specialised know-how is called into play, given the complex methods used by the perpetrators to cover their tracks (e.g. with offshore companies or bank accounts with an unidentifiable owner). Moreover, the perpetrators have enormous financial means at their disposal, with which to tempt public officers in key positions and political officials. On the other hand, however, the confrontation of financial crime is beginning to be carried out in co-operation with other authorities, interstate or even at international level, so that assistance and know-how can be pooled and documentation of material can be made available to the Greek authorities.

Needless to say, the phenomenon of corruption and financial crime is creating problems not only in Greece, but also in other European countries and at higher financial levels, such as in Germany and France (see Simopoulos 1997, pp. 297–298).

Conclusions

Thus, while it is true that in recent years various countries have undertaken a laborious and persistent campaign against the changing face of financial crime, a more rigorous line of attack still needs to be taken in Europe. Economic considerations apart, failure to do so will undermine the general public's feeling of well being and shake its confidence in the workings of the rule of law.

Of course, greater importance is given to cases of organised crime, that is, criminal activity systematically committed by an hierarchically structured team of criminals who do not hesitate to undermine State guidelines (such as those regarding corruption) and/or resort to violence in order to achieve their illegal aims (see Courakis 1998, p. 369f.; Kostaras 2000, p. 76f.). However simple, the involvement of a company or individual in illegitimate and/or criminal activity, often the result of high-risk initiatives intended to facilitate (e.g. through bribery) the achievement of alleged business aims (the usual motive behind financial crime), will almost certainly result in problems for the smooth operation of the economy and society. This makes a legal counterattack all the more necessary.

Anyway, this campaign against financial crime has to be delicately conducted in a careful and balanced manner. One would want to avoid disrupting the smooth functioning of society in as far human rights and more pointedly, defendant's rights are concerned. One would also wish to avoid repercussions on the economic front. It would be most undesirable to force small businesses to close down or stifle the economic growth of the free market. More useful would be the lifting of those unnecessary, restrictive conditions of economic life which draw citizens to financial crime.

Tackling financial crime within the existing, individual-orientated penal system, a system based on the traditional principles of responsibility and legality, will necessarily create a multitude of problems. In Greece, this system neither recognises penal responsibility for corporations and other juridical persons (*societas delinquere non potest*), nor allows penal prosecution against persons who simply exploit the law's shortcomings and loopholes (*in fraudem legis*), as is the case with most economic 'offenders' (cf. Courakis 1998, pp. 259–284). Hence, apart from other stra-

tegic measures that have to be taken at political, economic and social levels, it is vital for some countries to renovate their existing penal structure towards a more modern, society-oriented model capable of meeting the needs of an integrated European Community. Surely the *Corpus Juris of Penal Rules for the Protection of the Economic Interests of the EU* (see above) is a first, decisive step in this direction.

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