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ORGANIZED CRIME

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I. Problems of definition

1. In spite of sustained efforts to define the concept of "organized crime" (C. Fijnaut, *Organized Crime: A Comparison between the United States of America and Western Europe*, Brit. J. Criminology, 30: 1990, 321-340), no unanimity has yet been reached on this matter. The reasons for this scientific deficit are twofold. In the first place they are partly concerned with the heated political and ideological controversies surrounding the limits of combatting organized crime without simultaneously offending the fundamental human rights of certain groups, and secondly, partly concerned with the fact that most serious modern crimes that can be understood as "organized", for example terrorism and corruption, are still in the process of delineation and, as such, defy concrete definition at the present time (cf., *Pierre Papadatos*, *Le Terrorisme*, Athenes/ Komotini: A.N. Sakkoulas, 1989, 17, 182; *Andreas Loverdos*, *On terrorism and political crime* [in Greek], Athens: nterbooks, 1987, 98, 108f and, *by the same author*, *Deviations of political behaviour and Constitution* [in Greek], Athens: Exantas, 1988, 42 cont.).

2. Nonetheless, for the purposes of this paper, it would be useful to agree on some kind of *working criminological definition of the nature of "organized crime"*. In my view, the following four basic elements constitute a framework which enable the construction of such a criminological definition (the first two of these elements being also a sufficient and necessary condition for the formulation of a legal definition of organized crime *de lege ferenda*):

1. a long-standing hierarchical internal organization (i.e. strict distribution of tasks), with a limited hard-core of members and a

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- large network of collaborators drawn from a wide range of social backgrounds who are bound by the rule of "omerta" and who enjoy the mutual benefits such a relationship offers,
2. a rational and well-planned illicit activity aimed at large financial or other gains at low risk, especially in the field of dealing in illegal goods and services, such as drug trafficking and prostitution; the offender must be aware and willing of the illicit purposes of the association and of the fact that he supports them by his conduct,
 3. the utilization of threats of violence or actual violence in order to achieve the goals of the group, but only in the case where other less violent means, such as bribery, or even legal means, such as the exploitation of "loopholes", cannot achieve the same result,
 4. and an abundance of financial resources, political influence, modern technology and legal forms, by means of which the illicit activities are conducted ; hence, tolerance or even protection by corrupt government officials in administration, the police and so forth, and the development of other local or international "liaisons" (cf., *Chr. L. Blakesley*, *The Criminal Justice Systems facing the Challenge of Organized Crime*, in : *International Review of Penal Law*, 67 : 1996, 581-598 : 584f ; *M.B. Clinard/ R. Quinney*, *Criminal Behaviour Systems. A Typology*, New York etc.: Holt, Rinehart and Winston, 1967, 382-427 (second edition: 1973); *H. J. Schneider*, *Kriminologie*, Berlin / New York: de Gruyter, 1987(, 51-52; *U. Dörmann et alia*, *Organisierte Kriminalität - wie groß ist die Gefahr*. BKA Forschungs-Reihe: Wiesbaden, 1990, 6); *Dick Hobbs*, *Professional and Organized Crime in Britain*, in : *M. Maguire/ R. Morgan/ R. Reiner* (eds.), *The Oxford Handbook of Criminology*, Oxford : Clarendon Press, 1994, 441-468; *Maurice Cusson*, *La notion du crime organisé*, in : *Criminalité organisée et ordre dans la société* (Colloque, Aix-en-Provence, 5, 6 et 7 juin 1996), Presses Universitaires d'Aix-Marseille, 1997; *Sabrina Adamoli/ Andrea Di Nicola/ Ernesto U. Savona/ Paola Zoffi*, *Organised Crime Around the World*, Helsinki: HEUNI, 1998, 4 cont.).

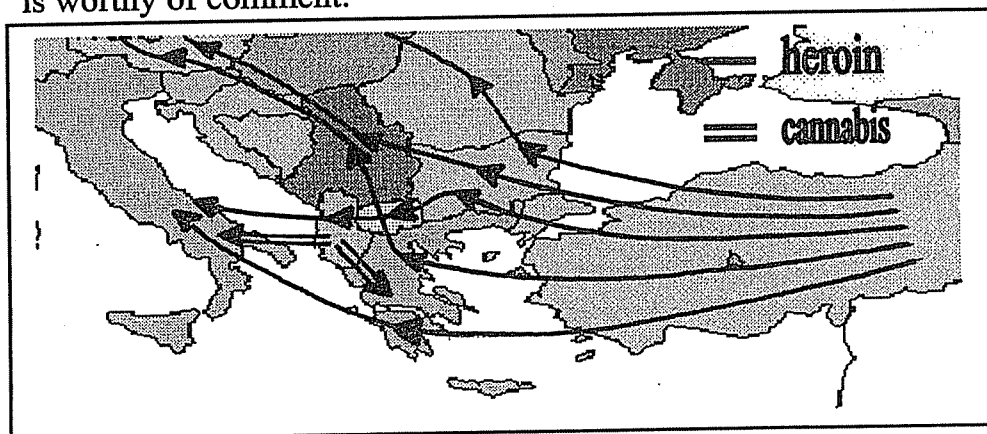
II. Extension, Phenomenology and Typology of Organized Crime in Greece

3. Bearing in mind the working definition of organized crime outlined above, it would be correct to state that no serious forms of this type of criminality had appeared in Greece until the mid-70s. Since then, the situation has changed dramatically.

Firstly, terrorist acts have taken on a systematic character. One particular example is the still unapprehended "17th November" organization, which

has struck repeatedly at various political, judicial and economic targets, including Members of Parliament, judges, newspaper editors, bankers, businessmen, policemen, CIA officials and Turkish diplomats, claiming over twenty lives since 1975, in attacks using revolvers, bombs and rockets. On the whole, about 461 acts of terrorism implicating the "17th November", "E.L.A." ("Revolutionary Popular Struggle") and other similar organizations have been reported and registered by the police authorities in the period between 1975 and 1994 (*Mary Bossi*, Greece and Terrorism, National and International Dimensions (in Greek), Athens/Komotini : A.N. Sakkoulas, 1996, 250-275). In addition, there have been many cases in which acts of terrorism in Greece were the result of "imported" terrorism, largely due to friction between hostile Palestinian and Israeli factions. Some Arab nationals have also been arrested for acts of terrorism and tried in Greece under Greek law (cf., *Mary Bossi*, op.cit., 122f.; *P.Kammenos*, Terrorism. Theory and Practice, (in Greek), Athens, Elliniki Evroekdotiki, 1992, 428f., and reports in "To Vima" (Greek Sunday newspaper), 8.5.1988, 32-33 ; 28.4.1991, 24-25 ; 5.5.1991, 30). It is interesting to note that according to a poll published in the Greek Magazine "Ena" (14.7.1988, 24-28) the Greek public showed a marked unwillingness to denounce a perceived terrorist activity to the authorities. Only 53.7 (of the poll would definitely inform the police on matters concerning the "17th November" organization, another 19.7 (thought they most probably would, and only 43.9 (of the respondents considered that the terrorist activities of this particular organization posed a serious threat to democracy.

4. Secondly, drug trafficking from Turkey to Greece and through Greece and Italy to the rest of Europe, has developed at a tremendous rate since the beginning of the eighties. A so-called "Balkan Axis" extending from Turkey to Bulgaria and on into Europe has come into being for this purpose. That 85 % of the 5,907 kg., of heroin seized in 1994 in member states of the European Union had been transported via this same "Balkan Axis" is worthy of comment.



Similarly, two-thirds of the drugs entering Greece do so through channels of the same network, controlled by Turkish smugglers (cf., "To Vima", 17.3.1996, A4, based on a report prepared by officials of the Ministry of Public Order; *Kostas Tsarouchas*, The "International Association" of Drugs [in Greek], Athens: Ellinika Grammata, 1997, 356f; "Eleftherotypia" (Greek daily newspaper), 7.8.1995, 15). Furthermore, the quantities of heroin seized by the Greek authorities in 1995 had almost doubled in comparison to the 1992 figures, from 23.258 kg. to 44.353 kg., ("Typos tis Kyriakis" (Greek Sunday newspaper), 28.4.1996, 97). Yet this development can be attributed not only to the increasingly successful vigilance of Greek customs authorities and intensified border controls, but also to the greater degree of infiltration of drug dealers into Greece eager to exploit the flourishing drug market in this country. Recent estimates indicate that with more than 100.000 addicted persons (1 of the population), the heroin trade in Greece generates an annual turnover of about 1,43 billion dollars! (cf. "To Vima", 27.8.1995, A30). In order to facilitate their activities, drug dealers systematically try to forge connections with police officials, judiciaries and those with positions of authority in corrective centres. However, according to the Report on Drugs issued by the American Government (26.3. 1997), there are no indications of serious corruption of state officials in the domain of drugs. What is more, drug criminality is rather low in Greece (2 (per 100.000 inhabitants), in comparison to other European countries such as Denmark (27 ()), Germany (14 ()), France (10 ()), and Italy (5 ()), ("To Vima", 16.3.1977, A48). Nevertheless, in recent years, some major drug dealers have succeeded in escaping detention. They contrive identities as drug addicts and as a consequence, have their punishment mitigated or are even allowed to leave prison on the basis of a leave-licence whereupon they abscond. These incidents were particularly stressed by the late Andreas Floudas, Public Procurator of the Supreme Court in his Report (cf., "To Vima", 7.6.1992, A53), and, more recently, in a Report by the Head of the Police Department against Drugs to the Parliamentary Committee on the Drug Problem (Feb., 1995), (cf. "Exousia" (Greek daily newspaper), 11.11.1996, passim). A further related development is the fact that the nineties has seen huge quantities of drugs, mainly cannabis and heroin, imported into Greece from Albania and FYROM through channels controlled by smugglers in those regions. In one particular incident in 1996, about 150 kg., of cannabis were seized in the region of the Prefecture of Kastoria, where Greece shares borders with both Albania and FYROM (cf. "Kathimerini", (Greek daily newspaper), 26-27.4.1997, 14).

5. The increasing death toll of drug users each year (160 officially confirmed deaths due to drugs in 1995 against 56 in 1987 and 79 in 1991) and the depressingly negligible number of addicts who eventually succeed in detoxification have given rise to a climate of fear and alarm felt by the general populace and the authorities alike. In a recent poll conducted among the members of the Greek Parliament, 73 (of the respondents felt the situation necessitated more severe penalties against drug dealers, while 22.3 (unequivocally favoured the death penalty ("Exousia", 23.10.1997, 42).

6. *Thirdly*, the late seventies saw the appearance of *syndicates of gangsters and killers*, the most sensational of which was the "*association of murderers*" under the guidance of a lawyer and ex-mayor of Nea Chalkidon (Attica / Greece), Christos Papadopoulos. Members of this association would kill old people with heart problems whose testaments had previously been manipulated in favour of the offenders. Eight persons were found to have been murdered (by suffocation leading to heart failure) over the period from 7.7.1978 to 7.8.1986. All victims were found to have signed blank papers which were later served as their "testaments". A decree of more than 800 pages led 28 accused to trial. Their process in the first instance started on 17.5.1987 and lasted for three months, during which time 300 witnesses were examined. Five of the accused were finally found to have played a preliminary role in the murders, and faced sentences ranging from 20 years to life imprisonment. Almost all of the others were also convicted. A new process in the second instance (17.1.1992 onwards), confirmed almost all of the initial sentences, though some were eventually reduced.

7. Another interesting affair which is still under investigation concerns the activity of a so-called "*association of murderers no. 2*", whose criminal nature was publicly revealed in May 1996. A group of gangsters under the guidance of Vasili Souflas and (following his killing) of Costas Andreadis has been accused of offering its paid services to persons controlling night-clubs and similar venues and of committing, at their instigation, at least eight murders, six attempted murders, an abduction and a series of robberies from April 1990 onwards ("*Eleftheros Typos*" (Greek daily newspaper (13.5.1996, 44-45; "*To Vima*", 12.1.1997, A42 and 9.3.1997, A46 ; "*Exousia*", 24.2.1997, 22).

8. Furthermore, the mafia-style crime of *abduction*, which had been rather marginal in Greece, seems to have been gaining ground this decade, with six recorded cases to date. On 18.3.1990, a young footballer was kidnapped and finally killed in what has become known as the Marcelino

Case. A little over a year later, on 12.7.1991, the twelve year old daughter of a precious stone merchant was kidnapped, her assailants murdering the family's domestic help before fleeing. The same gang subsequently kidnapped an eleven-year-old boy on 14.9.1995 whom they released after receiving ransom money of about 143.000 dollars in drachmae. Shortly after, on 15.12.1995, a leading industrialist from the north of Greece was abducted - allegedly by two gangsters with criminal records. On 25.1.1996, a group of five persons abducted a young teacher and on 28.2.1996 another industrialist was kidnapped in Candia, Crete. Finally, on 24.1.1997 six persons kidnapped a six year old girl. Fortunately, in all but one of the cases the victims were released unharmed, and in most cases the offenders were arrested and brought to trial. Yet this new type of organized crime, based on cruel violence, blackmail and blatant profit seeking, is a phenomenon which illuminates new dimensions of Greek criminality.

9. *Fourthly, underworld bands of "godfathers"* have proliferated in the nineties, specializing in high price protection rackets which place the proprietors of gambling clubs, bars, night-clubs and other underworld haunts, and also the owners of car-selling enterprises and similar businesses under unrelenting pressure. Other activities such as the procuring of prostitutes (mainly from Russia), securing travel arrangements for immigrants into Greece from Albania and Turkey, drug trafficking, dealings in contraband cigarettes and alcohol, arms trade, usury and car stealing to raise ransom money are also areas of considerable interest to these "godfathers", who are busy extending their "family" networks into new fields of activity, especially following the "liberalization" of the ex-communist countries and the opening of their borders at the beginning of the nineties. Some experts attribute these developments to the emergence and development of new forms of Mafia which, according to the country of origin and attributes of its members are commonly designated the "Albanian Mafia", the "Scopian Mafia", and the "Russian Mafia". Obviously, the instigators of these foreign criminal organizations closely collaborate with their Greek "godfather" counterparts.

10. To achieve their ends, these underworld gangs have to neutralize the reactions of the competent police officials at some point. When the usual means of corruption fail to suffice, threats of violence and actual acts of violence are used against those officials who have the courage to resist. On 18.2.1997 a bomb exploded when Mrs. Georgia Soldatou, wife of the Police Commander in Candia, Crete, turned the ignition key of her car. Mr. George Soldatos has also been the target of assaults in the past as

retribution for his decisiveness in combatting criminality in his area of competence (robberies, drug trafficking, usury, abductions) (cf., information in "To Vima" 23.2.1997, A48-A49 ; "Exousia" 19.2.1997, 19, and 3.3.1997, 27f.). Seven months later, on 20.9.1997, another bomb attack was made in Crete, this time in Rethymno, against the elected Prefect of the area, Mr. Manolis Litinas, whose flat was blown up with 8kg., of dynamite. The Prefect has carried out a courageous struggle to curb local criminality, particularly in the areas of cannabis cultivation, cattle theft and encroachment upon foreign territory by herders. For his vigilance, he had been previously threatened in June, 1997 by unknown persons, but remains stalwart (cf., information in "To Vima", 28.9.1997, A42-A45; "Ethnos tis Kyriakis", 28.9.1997, 32-33; Tassos Teloglou, "And yet, organized crime exists", "Kathimerini", 19.10.1997, 33).

11. *Fifth, money laundering* seems poised to become a flourishing activity in organized crime circles. The gains are considerable and no serious implementation of the recently introduced legislation has yet come into play. It is interesting to note that various drafts of this bill were prepared in Greece immediately following the promulgation of the Convention of the Council of Europe "on laundering, search, seizure and confiscation of the proceeds of crime" (8.11.1990), and of the similar Directive of the Commission of the European Communities on the same subject (10.6.1991). Consequently, a provision was introduced into the Greek Criminal Code as art. 394 (art. 5 of Law No. 2145 / 1993). This was replaced two years later by a series of ad-hoc legislative measures (Law No. 2331 / 1995), yet remained totally inactive until 31.1.1997, when at last, the main organ of its implementation, a committee under the chairpersonship of a judge at the court of appeal, was constituted (cf., "Kathimerini", 9.2.1997, 20). It can be claimed with some certainty that there have been no indications or proof that dirty money is being "laundered" in Greece. However, as has been observed in various annual Drug-Reports of the U.S. Department of State, the absolute character of the bank secret in Greece, the possibility of buying public promissory notes without having to explain the origin of the funds, along with the position of this country as a transit centre of the "Balkan Axis", are all contributory factors that can greatly facilitate such laundering activities (cf., "Ta Nea" (Greek daily newspaper), 8.3.1989, 20 ; "Kyriakatiki Eleftherotypia" (Greek Sunday newspaper), 31.3.1991, 18-19; "Typos tis Kyriakis" (Greek Sunday newspaper), 17.3.1996, 90 ; "To Vima", 17.3.1996, A4-A6 ; *Kostas Tsarouchas*, The "International Association" of Drugs [in Greek], Athens: Ellinika Grammata, 1997, 183f). To compound matters, Greek banks would resist pressure to impose too many restrictions and controls on their clientele, because this could

simply push their investors to deposit their money elsewhere, in countries such as the Seychelles, the Bahamas, Switzerland, Thailand and Turkey, where legislation on money laundering is looser or non-existent. Nonetheless, the pressures which have been exerted on the Greek Government by the European Commission (April 1995), and by the "Financial Task Force", (a special committee of OECD, September 1996), in recent years have apparently led to a more efficient Greek policy towards the problem. For example, all deposits of over 4 million drachmae (about 14.300 US dollars), are henceforth to be subject to careful checking as to their origin.

12. *Sixth, fraud against the interests of the European Union* can also be considered as a form of organized crime, and one that has occupied Greek courts on several occasions since the mid-eighties. The most frequently found kinds of EU fraud in Greece, in common with other European countries, break down into three categories. Firstly, *frauds committed in order to avoid paying the countervailing charges* which are due when a non-EU product is imported to an EU country. A typical case of this misrepresentation is undoubtedly the so-called "Yugoslav Maize Case", which prompted the intervention of the Court of the European Communities in its well known decision of 21.3.1989 (No. 68 / 88), as well as that of the Greek courts (cf., Decision No. 610 /1994 of the Supreme Court Areopag, published in "Poinika Chronika", v., 44: 1994, 749-759). The second category are *frauds intending to illegally collect restitutions* which are normally granted for exportation of EU products outside EU countries. In these cases, the defrauders falsely present the merchandise as being exported to a non-EU country, while on the contrary, they intend to export the merchandise to an EU country. This was the case in an interesting decision of the Athens Court of Appeal (No. 2867 / 1992, published in "Poinika Chronika", v., 43: 1993, 1167-1173). In 1983, the accused submitted a false bill of lading to the Greek authorities, claiming that a quantity of Greek wheat had been loaded on board a ship in Salonika, bound for Madera (North Africa). In this way, the persons involved succeeded in extracting a considerable amount of money from the competent EU authority (Feoga) as a restitution-subsidy for exportation to countries outside the European Communities. Finally, *frauds accomplished by persons who receive subsidies for the execution of a project* which does not finally materialize or does not materialize according to the pre-specified agreement (e.g. bad or non-performance of public work, an agricultural development or an educational project (cf., Decision No. 803 / 1991 of the Areopag in Camera, published in "Poinika Chronika", v., 41: 1991, 1184-1885; (for further information on this

subject see *Nestor Courakis, Greece: Coping with EU Fraud*, in *Journal of Financial Crime*, v., 4 : July 1996, 78-84().

III. The Legislative Movement against Organized Crime

13. Since the mid-seventies, the Greek legislature has made a valiant effort to control organized crime, in particular terrorism, by means of efficient and rigorous laws. Yet these laws were heavily criticized as offending fundamental human liberties or procedural guarantees, and were finally abrogated. It is indicative of the political dimension of these initiatives that the anti-terrorist laws were on two occasions promulgated by a right-wing government (1978, 1990), and abolished by a socialist one (1983, 1993). Hence, for the time being, *there is no ad hoc legislation in Greece to cope with organized crime nor any general provision of the Criminal Code to enhance penalties of traditional crimes in "aggravated cases" which could have the character of organized crime*. However, the attempts which were made to create such ad hoc legislation gave jurists a good opportunity to discuss the problem in depth and explore its legal aspects. In view of this, it would be useful to present an overview of the discussion which followed the promulgation of the two laws against organized crime and terrorism here.

14. The first of these laws was voted on in 1978, at a time when the general public deemed the problem of terrorism as acute not only in Greece, but also in Italy (brigate rosse), in Germany (R.A.F.), and in other European countries which had already taken similar measures (cf., the Italian law No.152, 22.5.1975, "Disposizioni a tutela dell'ordine pubblico": Legge Reale, and the German law of 18.8.1976, "zur Bekämpfung des Terrorismus"). Yet despite this favourable climate for taking anti-terrorist measures, - a climate heavily validated by the signature of the European Convention for the Suppression of Terrorism, (27.1.1977), adopted also by the Greek Parliament: Law No. 1789/1988, the Greek law on terrorism, entitled: "On the Repression of Terrorism and the Protection of the Democratic Regime" met with a stormy reception. In the first instance, objections were raised in reaction to the vague manner in which the law had been formulated. The law punished the act of constituting a terrorist organization or of participating in it to commit certain offences without specifically defining or explaining what was meant by this type of organization, contrary to art. 7, para., 1 of the Greek Constitution. In addition, the law presented a clearly political orientation and took measures expressly in favour of the so called "Democratic Regime". Secondly, voices were raised at the extent to which some important civil rights and procedural guarantees were

restricted within the framework of this particular kind of offence (terrorism), contrary to the constitutional principles of human dignity and of equality (cf., the discussions for voting this law in Parliament: Minutes of the Discussion of the Parliament, Session of 3.4.1978, 2400f, also the papers of *G. Mangakis* in "Nomiko Vima", 1980, 1018f and *I. Manoledakis* in "Armenopoulos", 1981, 366f.).

15. Despite these weaknesses, the anti-terrorist law (Law No. 774 / 1978) found a certain application in the courts, which also tried to clarify the meaning of "terrorist organization" (cf., Decision No., 1110 / 1981 of the Areopag, published in "Poinika Chronika", 32:1982, 418 - for further interpretation of this law see the jurisprudence quoted in: *Nestor Courakis*, Reflections on the Problem of Modern Terrorism (in Greek (, in: *Elliniki Epitheorissi Eglimatologias*, Issue 1 : June 1988, 123-131:126). Of the more sensational cases tried by virtue of this law, is one concerning the activities of a group of 14 persons, under the leadership of Kostas Zirinis, who were arrested in 1980. On 23.6.1980, six received sentences of between 6.5 and 2.5 years, while the other eight were acquitted. After the abolition of Law 774 / 1978 in 1983, the question was raised as to whether such persons should be released or not. In its plenary session (Decision No. 643 / 1985), the Supreme Court repeated the opinion previously voiced by its divisions (Decision Nos. 442 / 1984 and 1390 / 1984, in "Poinika Chronika" 34: 1984, 859 and 35: 1985, 388), determining that in such cases the activity cannot remain unpunished but has to be treated according to the other dispositions of the Criminal Code, as if the law in question had never existed. Interpreted in this light, the members of a terrorist gang should be judged and convicted in conformity with art. 187 para., 1 of the Criminal Code, entitled "organization and conspiracy" (see this decision in "Poinika Chronika" 35: 1985, 894-899). However, at a retrial at the Court of Appeal on 7.3.1985, the condemned members of the Zirinis group were acquitted.

16. The anti-terrorist law had been repeatedly condemned by the Greek Socialist Party "PASOK", who subsequently abrogated it after coming to power (Law No. 1366 / 1983). Nonetheless, at the same time, this abrogation was counterbalanced by the reinforcement of a series of other provisions related to the offences against the public order (e.g. art. 187). Yet when the right-wing party of "New Democracy" formed its government in 1990, these provisions of the Criminal Code were considered as insufficient and new ad hoc legislation was promulgated (Law No. 1916 / 1990). This new legislation endeavoured to avoid the pitfalls of the earlier one, mentioning neither the concept of terrorism nor the connection between its conceptualization and basic orientation with

political dimensions (cf., *Chr. Stylianeas*, Terrorism as a Social Phenomenon and Human Rights [in Greek], Athens: A.N. Sakkoulas, 1993, 17]. On the contrary, it insisted on the image of a law aimed primarily at combatting organized crime, as reflected in its title: "Law for the Protection of Society against Organized Crime". Its contents also seem to meet with this non-political orientation, although the similarities with the German provisions against terrorism, in particular para. 139a of the German Criminal Code, are striking.

17. In fact, the main punishable act of this law (in art. 1), was based on the conception of constituting or participating in an organization or group of two or more persons, with intent to commit repetitively or accumulatively:

- (a) homicide;
- (b) grievous or severe bodily harm inflicted or caused by means of a weapon or explosives or incendiary device;
- (c) abduction or unlawful detention of persons, or capture or occupation of means of transport in which there are persons, with intent to use these persons as hostages or to collect ransom or to force an authority into doing, omitting or tolerating an action, or to frighten the public;
- (d) crimes included in the law on hijacking;
- (e) crimes which are committed with the use of bombs or hand grenades or rockets or firearms or other explosive or incendiary devices or trapped objects or chemical / biological agents, provided that such acts endanger a person or an object;
- (f) unlawful detention of political persons, as enumerated in art. 157 of Greek Criminal Code;
- (g) arson;
- (h) assault or plunder against police or army installations;
- (i) trade or trafficking of drugs or of means of chemical or biological warfare.

18. The above mentioned offences would incur *prison sentences of between five to twenty years*. In the case that one of the above mentioned crimes for which the organization or group had been constituted was committed, punishment should amount to life imprisonment. Life imprisonment should also be, as a matter of course, the punishment for the creator, the leader or the instigating principal of the organization. Persons who constructed, maintained, hid or trafficked weapons etc., for the purpose of supplying such groups or organizations (art. 2), or persons who financed or supported such groups or organizations materially or in any other way could also expect heavy sentences (art. 3). In addition, lighter sentences of between two to five years would be incurred by

persons who supported or facilitated these organizations by collecting or providing their members with useful information, offering them shelter, recruiting new members, distributing proclamations, or hiding articles from or used during the activities of these organizations (art. 4). Similarly, sentences of between three months to five years could be expected for persons who withheld relevant information, who neglected to warn the authorities of imminent crimes in good time, or who failed to inform the authorities about the perpetrators of such crimes (art. 5). Finally, when such an organization made an announcement, statement or proclamation, the mass media communication of which was expressly prohibited by the competent Public Prosecutor, a punishment of between three months to five years imprisonment and a substantial pecuniary penalty would be imposed on those responsible *parties of the Press who ignored this prohibition and published or transmitted the proclamation in its entirety* (art. 6).

19. Apart from these articles belonging to the so-called "material criminal law", provisions of a procedural character have also been made, aimed at the more efficient and speedier investigation and completion of cases, in line with the model established by Italian anti-terrorist laws (see *Sofia Vidali*, Terrorism in Italy during the seventies (in Greek (, Athens / Komotini: A.N. Sakkoulas, 1997, 357 onwards). These provisions include the extension of the duration of crime in flagrante to four days instead of two, the restrictions of the rights of the accused during the investigation, non-respect of the secrecy of correspondence and of the bank secret, granting of a reward and of penal immunity to persons who cooperate with the authorities by revealing the identities of the members of the organization (art. 10-17).

20. This legislation was also received badly by the parties of the Opposition and by certain criminologists and constitutionalists, as including provisions of an authoritative and anti-constitutional character (cf., *the Minutes of the Discussions of Parliament*, 10.12.1990, 4548 foll., 12.12.1990, 4653f.; see also an anthology from the Discussions of the Parliament in "Hyperaspissi" 1991, 542-555; - in the same review there is a series of articles on the law in question by *V. Zisiades* (1991, 979f.), *K. Beis* (1991, 987f.), *I. Manoledakis* (1991, 997f.), *G. Papadimitriou* (1991, 1003), *D. Tsatsos* (1991, 1009f.), *N. Paraskevopoulos* (1991, 1012f.) and *P. Dagtoglou* (1991, 1019f.), - all of which articles (bar the last) argue that the law contains provisions contrary to the Constitution and in particular, as far as art. 6 is concerned, contrary to the Freedom of the Press). However, in its Report on the Law, the Scientific Council of the Greek Parliament expressed the opinion that although some of the Law's

provisions (e.g. those in art. 6) were of "marginal constitutionality", none of them amounted to open opposition of the Constitution (see *Scientific Council of the Greek Parliament*, Reports on voted drafts of law, vol., III, Athens 1992, 187-206). A Court of the First Instance, which had to reach a decision on the constitutionality of art. 6 (Freedom of the Press), reached the same conclusion. According to this decision, art. 6 of the law is not contrary to the Constitution since it does not introduce a preventive measure, aims at protecting human life, and grants the Public Prosecutor with an admissible authorization to issue an interdiction of publications which describe, even defectively, the objective and subjective elements of the crime (Court of the First Instance in Larissa, Decision No., 1074 / 1992 in camera, in "Hyperaspissi" 1993, 351-361 and Court of the First Instance in Athens, Decision No 49426/1991 in "Nomiko Vima" 40: 1992, 337-339).

21. The law against organized crime was one of the first to be abolished immediately after the socialist party "PASOK" returned to power in 1993. By virtue of art. 35 of Law No. 2172 / 1993, this law was totally abrogated. However, by means of its integrated structure, it gave a *global view* of what the main components of the Greek legislation (mainly of the Greek Criminal Code) against organized crime can be. These provisions of the existing Criminal Code, which can cover almost all the areas of the abrogated law against organized crime respectively, are detailed below (for further comparison cf., the above mentioned *Report of the Scientific Council* of the Parliament and the article of *Ch. Papacharalambous*, Law No. 1916 / 1990 as a case of symbolic penal legislation, in "Hyperaspissi" 1992, 1357-1377).

IV. The Existing Legislative Framework

22. *Art. 187 Cr.C.* is the main provision of Greek criminal legislation to cope with organized crime and terrorism. It is significant that art. 187 was used by the Greek courts to cover the legislative gap of punishable terrorist behaviour after the abrogation of the anti-terrorist laws of 1978. The same happened when the more recent law No. 1916 / 1990, against organized crime was abolished. Once again, the Greek courts decided that art., 187 Cr.C., should be revived and find application in the case of a person who was originally tried and convicted for terrorist activities by virtue of the abolished law against organized crime (Court of Appeal of Athens, Decision No. 599 / 1994, published in "Poinika Chronika" 44: 1994, 226 foll.). It is true that art., 187 is *more general* and provides *lighter terms of imprisonment* than the other two specific areas of abolished legislation against terrorism (1978) and organized crime (1990)

(cf., Areopag, Decision No. 691 / 1983, in camera, pub. in "Poinika Chronika" 33: 1983, 928 foll.). The legislative model for art. 187 Cr. C., should be looked for in para., 498 of the earlier German Cr. C., (Mordkomplott) (cf., *I. Manoledakis*, The Protection of Public Order in the Greek Criminal Code (in Greek, Thessaloniki 1970, 135 foll.), or, according to another opinion, in para., 129 of the German Cr. C., (*K. Konstantinidis*, Organization and Conspiracy (in Greek, Thessaloniki 1978, 31). In my view, both of these opinions are acceptable and can be used in a supplementary way. Besides, the type of offence dealt with under art. 187 has a marked similarity to the French one of "associations de malfaiteurs" (art. 265 cont. of the old French Penal Code and art. 450-1 foll., and 132-71 of the new French Penal Code), and to the Italian one of "associazione per delinquere" (art. 416 of the Italian Penal Code). Needless to say that it was a common form of crime in all continental European legislation at the time when the Greek Criminal Code was voted, in 1950. The exact content of art. 187 Gr.Cr.C., in its present formulation is as follows:

Article 187: Organization and Conspiracy

1. One who agrees with another to commit a certain felony or who joins another to commit more felonies not yet specifically defined, shall be punished by imprisonment for not less than six months.
2. One who agrees with another or joins another to commit one or more misdemeanors for which a penalty of imprisonment of not less than one year is incurred, shall be punished by imprisonment.
3. An offender shall be released from the punishment of the preceding paragraphs if, by informing the authorities, he makes possible the prevention of the commission of the felonies or the misdemeanours.

23. According to the interpretation of this provision, the agreement or cooperation with another to commit crimes must not be temporary, but has to present a perspective of continuity (commission of further crimes in the future), because otherwise all co-principals of a certain offence, according to art. 45 Gr.Cr.C., should also be punished under the provisions of art., 187 Gr. Cr. C., (cf., *I. Manoledakis*, Plots against the Public Order (in Greek, Thessaloniki: Sakkoulas, 1990, 109 foll.).

24. Around this cardinal regulation of art. 187 Gr. Cr. C., there is an abundance of other provisions which deal with other *organized disturbances of public order*, such as the participation in an association, "the aims of which are opposed to the criminal provisions" (art. 188 - cf., again para., 129 German Cr. C.), and the unlawful organization or participation in an armed group, even if this group has not yet acquired

criminal aims (because otherwise this group could succumb under the more severe provisions laid down for crimes of treason and high treason in art. 134, following Gr. Cr. C. (art. 195 - cf., art. 653 of the Italian Penal Code and para., 127 of the German Cr. C.).

25. Still on the subject of public order, there are, in addition, provisions to cope with dangerous forms of political or other communication, such as, for example, "inciting the disobedience of statutes or ordinances or other lawful orders of authorities" (art. 183 - cf., art. 415 of the Italian Penal Code and abolished para. 110 of the German Cr. C.), inciting "the commission of a felony or a misdemeanor" (art. 184 - cf., para. 111 of the German Cr. C., art. 259 of the Swiss Cr. C. and art. 414 of the Italian Penal Code), or praising "publicly and by any means, a committed felony and thereby exposing public order to danger" (art. 185 - cf., para. 140 of the German Cr. C.).

26. Within the same framework of protecting public order, there are also provisions more specifically concerning "*Peace among Citizens*", which can be disturbed "by threats of the intention to commit felonies or misdemeanors" (art. 190 - cf., art. 258 of the Swiss Cr. C. and para. 126 of the German Cr. C.); by disseminating "false information or rumours etc.," (art. 191 - cf., art. 265 of the Italian Penal Code); or by inciting citizens "to commit acts of violence upon each other or to disturb the peace through disharmony among them" (art. 192 - cf., para., 130 of the German Cr. C.) (For a translation of those Greek provisions which have not been modified in the last 25 years, see: The Greek penal Code, translated by Dr. *Nicholas B. Lolis* with an introduction by Professor Dr. *Giorgos Mangakis*, South Hackensack, N.Y. / London: Fred B. Rothman (Co., / Sweet (Maxwell Ltd., 1973, 108 foll.,).

27. Finally, there are provisions entitled "Aiding an Offender", and "Failure to Report Offences", which punish those persons who "knowingly frustrate the prosecution of another for a felony or a misdemeanor committed by the other or the execution of the punishment imposed upon the other" (art. 231 - cf., art. 305 of the Swiss Cr. C., art. 378 of the Italian Penal Code and para. 258 of the German Cr. C.); or who "omit to make a timely report to an authority of a planned or commenced offence of which they have received knowledge in a reliable way" (art. 232 - cf., 364 of the Italian Penal Code and para., 138 and 139 of the German Cr. C.).

28. If one compares the above mentioned articles of the Greek Criminal Code to the ones of the abrogated legislation against organized crime, it is

not difficult to conclude that, as stated above, *there is an abundance of provisions laid down by the existing law to cover almost all the penal aspects of constituting, or participating in, or aiding and abetting a criminal group or organization, irrespectively of whether further crimes are inchoate, committed or not. Yet the punishments for all offences concerned with keeping public order and peace among citizens never exceed the limit of a five year sentence and always follow normal procedure.* It should be noted that for sentences of up to two years the penalty is usually convertible to a pecuniary penalty or suspended sentence.

29. On the other hand, Law No. 1916 / 1990 was established for these same offences of mere agreement to commit crimes etc., but on condition that the offenders intended to commit more serious crimes such as hijacking, abduction, and homicide. In addition, the legislators of this law not only imposed draconian prison sentences ranging from between five to twenty years or even life imprisonment, but also introduced speedier, more "efficient" procedures, so as to show, albeit "symbolically", that the State was determined to combat this kind of criminality. Whether this goal was realistic and could be achieved without the assistance of the other political parties and of public opinion, is an interesting question of crime policy, and one to which I find it hard to respond to with much optimism.

30. Besides, the main orientation of this law of 1990 "against organized crime" was to combat terrorist activities and not to tackle organized crime as a whole, e.g. including acts of "protection" by persons of the underworld in its field of application, - in which case perhaps the social consensus would be wider. In fact, in most cases of the abrogated law, criminal associations were related to targets of state authorities or of innocent victims of terrorist assaults and in only one case (at the end of the list of offences in art. 1) was a typical form of organized crime - apart from terrorist activities - mentioned, namely "trade or trafficking of drugs or of means of chemical or biological warfare".

31. From a legislative point of view, *trade or trafficking of drugs* is subject to and punishable by severe sentences of between ten to twenty years, possibly even life and heavy pecuniary penalties may incur in cases where the offender has committed the act repeatedly or is deemed dangerous etc., (art. 5 and 8 of Law No. 1729 / 1987 "on combatting the spreading of drugs, protecting the youth and other provisions" ; on the interpretation of these provisions cf., *Jacques Farsedakis/ George Sylikos, Drugs* [in Greek], Athens: Nomiki Vivliothiki, 1996, 111f, 200f and

Stefanos Pavlou, Drugs [in Greek], Athens: P.N. Sakkoulas, 1997, 72f., 137f.). This is similar to the case of *homicide* (art. 298 foll. Gr. Cr. C.: life sentence) and *abduction* (art. 322 Gr. Cr. C.: confinement of 5 - 20 years and in more serious cases, i.e., if the offence was committed with intent to force a person into committing, omitting or tolerating an action, confinement of 10 - 20 years or even a life sentence). The importation, occupation, trade, *trafficking etc., of weapons and guns* is also punishable by heavy penalties (confinement of 5 - 20 years) if the offenders intend to unlawfully supply associations or groups (art. 15 of Law No. 2168 / 1993).

32. Offering of "*protection*" can establish the offence of extortion (art. 385 Gr. Cr. C.), if the person acts "with intent to enrich himself or another with an unlawful interest in property", and if the act takes the form of "compelling another by force or threats to commit, omit or tolerate an act which results in damage to the property of the person so forced or of another". The punishment in cases where the offender uses bodily force or threats immediate injury to body or life can amount to confinement of 5 - 20 years, or even a life sentence, although normally the penalty does not go beyond 5 years. It is interesting to note here, that according to a law modification of 1976, the following passage was added to this general provision: "If the offender has made use of violence or threats of harming the enterprise, the profession, the office / function or another activity which the person so forced or another performs, or has offered himself to give or gives protection so that the provocation of such a harming by a third person be averted, he shall be punished with imprisonment of between 2 - 5 years, which cannot be converted to pecuniary penalty or suspended". In other words, a specific provision had already been introduced in Greece to combat this phenomenon of "*protection*" by 1976 (on the interpretation of this provision cf., *Vas. Alexandris*, The Crime of Extortion (in Greek), Athens: A. N. Sakkoulas, 1995, 151 foll.). Yet due to the existing rule of omerta in the underworld, cases of extortion which could be linked with "*protection rackets*" reach the courts only rarely.

33. Other activities of the underworld are connected with various kinds of unlawful trafficking ranging from arms, drugs, cigarettes and alcohol to prostitutes and immigrants. The legislative framework for arms and drug trafficking have previously been dealt with in this chapter. As far as *dealing in contraband cigarettes and alcohol* is concerned, these cases are provided for by the "Code of Customs" (art. 100, para. 1 of the Law No. 1165 / 1918), with prison terms ranging from 6 months to 5 years, and in aggravated cases, 1 to 5 years. It is worth noting that the specific provisions of the "Code of Customs" in art. 100, para. 1 is formulated in a

very general, even vague way, so that it encompasses "any activity whatsoever" which is committed with the intent to deprive the State of the duties and other dues payable by the offender. On the other hand, since 1.1.1993, most of the articles of the Code of Customs (1 - 88) apply in the main part only to non-EU countries, while the custom situation for EU countries comes under the ruling of the European Code of Customs (EC Regulations 2913 / 92 and 2454 / 93). It is evident that these developments may facilitate smuggling activities in the future, even if these activities originate in non-EU countries. It is hoped that other, more serious crimes within EU countries following the abolition of their internal borders can be curbed through the application of the so-called "Schengen Agreements", which were recently adopted by the Greek Parliament (Law No. 2514 / 1997; cf., *N.-C. Sakellariou*, *The Information System Schengen* [in Greek], Athens: A.N. Sakkoulas, 1995, 51 foll.).

34. *The trafficking of prostitutes and immigrants*, as previously stated, constitutes another important target of the Greek underworld, given that in most cases, prostitutes enter the country as immigrants. This situation is favoured by existing legislation which is not particularly severe. According to art. 33 of Law No. 1975 / 1991 on aliens and refugees, if a person unlawfully transports aliens from abroad or facilitates their transportation in hinterland or secures shelter for them, he or she will face prison sentences of 1 - 5 years, or 2 - 5 years in aggravated cases, and pecuniary penalties (see the commentary of *N. Chlepas / D. Spyarakos* in their book on Law No. 1975 / 1991, Athens 1991, 52). Similarly, under the Greek legislation on Facilitating the Debauchery of Another (art. 348 Gr. Cr. C.), Pandering (art. 349 Gr. Cr. C.), Pimping (art. 350 Gr. Cr. C.), and Trafficking in Prostitution (art. 351 Gr. Cr. C.), punishments never exceed 5 years of imprisonment.

35. In addition, in cases where *corrupt officials* promise to or actually facilitate illegal activities against their bounden oaths, and accept or are prepared to accept gifts or other advantages for their services, punishment does not exceed 5 years imprisonment (art. 235), this also being the case with the person who offers the bribe (art. 236). It should be noted that, generally speaking, the penalties actually imposed for offences of this nature are usually around 2 years of imprisonment, which is the upper limit for conversion and suspension of prison sentences. It seems, therefore, that in many cases the offenders, thanks to the existing penal legislation, succeed in avoiding imprisonment and this, certainly diminishes the effect of deterrence intended by the provisions, especially

if this effect is compared to the great profits which result from such illegal activities.

36. Legislation on *money laundering* is new in Greece (Law No. 2331 / 1995) and was implemented, as previously stated, only in 1997. Hence, it is too early to judge whether this legislation, which was primarily based on the respective provisions of the Council of Europe and on the EU, can curtail the illegal practices in this domain (for a critical review of this new Law see in particular the articles of *Georgios Rigos* in "Elliniki Dikaeosyni", 37: 1996, 261-266; *Pan. Vassilakopoulos* in "Poinika Chronika" 46: 1996, 1361-1373; and *G. Tragakis* in his book: *Organized crime and money laundering* (in Greek), Athens: Nomiki Vivliothiki, 1996). Most other papers published on this subject refer to the earlier legislation, which was introduced by virtue of art. 5 Law No. 2145 / 1993. This law contained criminal but not administrative provisions, and was abolished two years later (cf., *Stergios Alexiadis* in *The Journal of Asset Protection and Financial Crime*, 2:1994, 132-136 and in "Armenopoulos" 1992, 1-6; *Th. Giannopoulos* in "Poinika Chronika" 43: 1993, 1238-1249; *V. Douvlis* in "Elliniki Dikaeosyni", 36: 1995, 27-31). According to this new law (art. 1, 2), a prison sentence of 5 -10 years can be incurred by persons who intend to gain illegal profit, or to conceal the real origin of funds, or to assist someone implicated in criminal activity, (such as drug / arms trafficking, robbery, extortion, abduction, aggravated forms of theft, illicit appropriation and fraud, trafficking in antiquities, serious cases of smuggling and pandering, gambling, embezzlement of public money etc.) or to buy, hide, receive, convert or transfer any property derived from criminal activities. It is worth noting that the new law suggests an interesting list of the main types of crime in the opinion of the Greek legislator today, which could be considered as forms of "organized crime". A similar inventory is also contained in art. 40 para., 2 of the Convention for the Application the "Schengen Agreement".

37. Finally, *frauds against the interests of the European Union*, the so-called "euro-frauds", comprise a particular type of organized crime. The Greek Courts usually deal with such cases by invoking the provisions on smuggling, fraud, false certification, forgery, and in some cases, embezzlement of public money (Law No. 1608 / 1950). Yet this raises the question of whether these provisions can effectively be applied by the Greek Courts in cases where non-Greek "legal goods", like the Community budget and its relevant financial interests are affected. In a number of cases jurisprudence has affirmed this question and has handled cases of EU-fraud as a fraud directed *both* against the interests of the EU and of Greece, since the latter was obliged to pay the countervailing

charges with interest, in compliance with art. 13 of EC Regulation No. 2727 / 1975 (cf., a paper by *Ev. Kassalias* in the Greek review "Diki", 27: 1996, 1230-1232). However, such legal reasoning is, in my view, neither safe nor secure. It would be preferable if Greece were to promulgate law provisions which could fill the gaps in existing legislation and, in particular, include frauds against the EU's financial interests as part of the concept of punishable acts according to Greek Criminal Law. This measure would also be in conformity with art., 209a of the EC Treaty, as formulated by art. G (77) of the Maastricht Treaty (for Greece this is internal law: No. 2077 / 1992), which imposes on EU country members the obligation to take "the same measures to counter fraud affecting the financial interests of the community as they take to counter fraud affecting their own financial interests".

V. Action for the Future

38. There can be little doubt that the existing legislative framework is inadequate by itself in the face of the escalating organized crime of the nineties. Hence, a number of practical administrative measures need to be introduced to ensure the smooth implementation of this legislation. Yet this is still not enough. The police, judicial administration, and public opinion also have an important role to play in the ultimate success of an adopted law or measure. The decisive and determined attitude of the persons who are charged to implement a law against organized crime or who are called to assist in its implementation is even more important than the law itself. Therefore, it would be pertinent for modern Greek crime-policy to focus its interest not only on improving existing legislation, which, I believe, is able to cope with the situation on the whole and needs no ad hoc measures, but more profitably towards promoting a better understanding of the scope and aims of this legislation to the authorities and the general public alike, in the light of the underlying dangers of organized crime for a modern society (cf., *C. Vouyoucas*, *Constatations et reflexions sur les problemes actuels de la criminalite organisee et du terrorisme*, in: *Charistia Ioanni Deliyanni*, vol. 3/I, Thessaloniki 1991, 463-486: 482 foll. and *Ch. Papacharalambous Olga Tsolka*, *Organized Crime in a Europe with open frontiers* (Report on a Conference organized in Trier/ Germany, Dec. 1994, by Prof. *Ulrich Sieber*, Wurzburg University), in: "Hyperaspissi", 1996, 675-688).