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Joint report from Commission services and EUROPOL

“Towards a European strategy to

prevent organised crime”
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Introduction

There is a growing understanding amongst policy makers\(^1\), professionals and academics that the traditional enforcement approach to tackling organised crime will not, alone, bring about the hoped-for reduction in such activity. The idea, instead, that only the use of targeted and co-ordinated strategies in the field of prevention, reduction and combating organised crime as a whole will achieve that goal is gaining ground. These strategies have to be built on partnerships between the criminal justice system, public administration, scientific community, society and private industry.

Different meetings held since 1996 illustrate this change in vision, including the seminar on police and urban criminality (Zaragoza, February 1996), the seminar on European Union measures to combat the drug problem (Dublin, November 1996), the European Union Conferences on Crime Prevention (Stockholm, May 1996 and Noordwijk, May 1997) and the seminar "Partnerships in Reducing Crime" (London, June 1998).

The High Level Group created by the European Council to establish an Action Plan to combat organised crime\(^2\), recognised and acknowledged the above-mentioned change in vision. In general it was stated that prevention is no less important than repression in any integrated approach to organised crime.

In line with the Action Plan, which contains a number of recommendations related to prevention, the Council adopted the Resolution "on the prevention of organised crime with reference to the establishment of a comprehensive strategy for combating it"\(^3\). The Resolution invites the Commission and Europol to prepare a comprehensive report by the end of 2000, which in particular should:

- make proposals on how prevention measures could be promoted in future work at European level, and in particular how they could be reflected in the legislative process;
- analyse what measures for the prevention of organised crime, by which bodies and at what level, seem appropriate with a view to optimum effectiveness;
- analyse proposals for the encouragement of the evaluation of measures for the prevention of organised crime;
- analyse to what extent prevention measures can be taken at the European level (particularly in the light of the Treaty of Amsterdam);
- make proposals for drawing up and keeping up to date a repertory of good practice in the area of organised crime prevention;
- analyse to what extent ideas and measures for the prevention of organised crime could be taken into account in the process of enlargement and relations with third States;

\(^1\) European Parliament resolution on organised crime, OJ C 371, 8.12.1997
\(^2\) OJ C 251, 15.08.1997
\(^3\) Council Resolution of 21 December 1998, OJ 98/C 408/01
The Commission services and Europol have undertaken this work, on the assumption that prevention, anticipation and reduction of crime is closely related to, and integrated into, other social, economical and cultural policies; that prevention measures must be taken as close as possible to the source of the problem; and that their effectiveness must be carefully evaluated.

The analysis carried out shows that while the main responsibility for preventive action relies on Member States, at national or local level, the transnational dimension of organised crime and its impact on EU Member States, not only individually but also as a whole, justifies an EU level of action. In particular, there exists a clear interest for the European Union regarding information exchange, analysis, diagnosis, and co-ordination.

The Commission has provided a first contribution to the discussion on possible actions at EU level in its communication of 29.11.2000 on the prevention of crime in the EU\(^4\) where it acknowledged, among others, the need to develop the prevention dimension in existing policies and instruments of the EU. The approach suggested into this communication was global, addressing all forms of criminality, organised or not, and made first proposals for action.

The recommendations proposed by the joint report of the Commission’s services and Europol give direction to the EU approach in the prevention of organised crime and specify the initiatives which could be launched and the structures which could support the elaboration of an EU strategy to prevent organised crime. It shall also complement and benefit from the global anti-fraud strategy proposed by the Commission in its communication of 28.06.2000.

The report aims at feeding a reflection on the needs and prerequisites to a multidisciplinary EU strategy to prevent organised crime, in all competent bodies, whether public or private, at national and European levels. Among the wide range of actions which are proposed, those which are constitutive elements for building up an EU strategy should be examined first. In this context, the question of resources dedicated to the prevention of organised crime shall have to be addressed.

More generally, the recommendations made by the Commission’s services and Europol should be read in the light of the Scoreboard on establishing an area of freedom, security and justice.

As a joint document of the Commission’s services and Europol, the report also includes an assessment of Europol’s possible contribution, within its own competences, to the prevention of organised crime. According to the Europol Convention, Europol’s tasks include the prevention of those forms of Organised Crime which fall within Europol’s mandate (Article 2, in particular paragraphs 1 and 2).

Wherever crime prevention is related to specific operational cases or suspects, the limitations inherent in Europol's mandate must be strictly respected. However, where the activities of Europol relate to prevention in its more strategic form, which

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\(^4\) “The prevention of crime in the European Union; reflections on common guidelines and proposal for a financial community support” COM (2000) 786
is not aimed at specific criminal groups or activities, but much more at abstract factors which could play a role in diminishing the occurrence of organised crime, these boundaries appear to be much more artificial, and do not serve a real purpose.

Moreover, as underlined in this report, the efforts in this area are much more focussed on certain methodologies and approaches, which can and should be applied to all forms of organised crime. It is not always possible - even if it were felt to be desirable - to limit such approaches from the outset to certain areas of criminality. This approach might easily prove to be counterproductive, especially since, by definition, prevention activities aim to focus on those stages before behaviour turns out into organised crime. For these reasons, where this document relates to methodological tools, no limitations have been applied relating to the categories of crime for which they could be useful.
1. Milestones and activities

The European Council in Tampere formulated a clear political course as regards the importance of incorporating preventive aspects into the fight against crime and the development of national prevention programmes. In the field of combating organised criminality, in March 2000 the Council adopted the European Union Strategy for the beginning of the new Millennium which, building on the previous 1997 Action Plan, includes prevention elements.

In order to follow-up on the European Council conclusions, which in particular stressed the need to identify common priorities for prevention action, to develop best-practice exchange, to reinforce the network of competent national authorities dealing with prevention and the co-operation between national organisations operating in this area, the Portuguese Presidency organised a High Level Conference on the 4th and 5th of May 2000 in Praia da Faleisia\(^5\).

In parallel the Commission’s services and Europol, working on the basis of the 1998 Council Resolution, gathered input and ideas from Member States’ key players in organised crime prevention and held a first Forum on the 4th & 5th of November 1999\(^6\) in The Hague at Europol siege. A second Forum was organised by Portugal, in co-operation with the Commission’s services and Europol, in Costa da Caparica on the 5th & 6th of June 2000\(^7\).

The results of other activities were also considered, for example the seminar on "Best Practices in Drug Prevention by the Law Enforcement" organised on 11th & 13th of June 1999 by the Finnish presidency in co-operation with the Secretariat General of the Council, the EMCDDA and Europol\(^8\).

In addition, in order to complete the analysis, relevant literature and studies were examined, national practices were reviewed and several research projects, cofinanced by the Falcone programme, were carried out, some of them being still under completion\(^9\).

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5 DGH 8442/00 JAI 51(Praia da Faleisia, High Level Conference)
6 EUROPOL 5121-19991104-CO
7 9433/1/00 rev 1 CRIMORG 95
8 DGH III 10162/99 CORDROGUE 54, CRIMORG 106
9 The list of projects includes:
- Preventive pre assessment of existing and new legislation (Max Planck Institute),
- Use of records as a means of preventing organised crime in the areas of Money Laundering and Public Procurement (University of London),
- Feasibility study on the establishment of a EU database with regards to best practice (United Kingdom, Sweden and Europol),
- The registration of legal persons and their directors and the international exchange of information (Asser Institute, Ministry of Justice of The Netherlands, Europol),
- Feasibility study on the establishment of a Directory of Excellence for the prevention of Organised Crime (Ministry of Justice of Portugal, Europol),
- Euroshore: protecting the EU financial system from the exploitation of financial centres and offshore facilities by organised crime (Transcrime University of Trento, Italy),
- Feasibility study to detect opportunities for organised crime (Ministry of Justice of The Netherlands, Finland, Transcrime, Unicri, Hungary and Europol),
2. Definitions

2.1. Definition of organised crime

The definition of what exactly “organised crime” is has been a difficult exercise in the EU. However while the separation between crime and organised crime is essential in the context of a repressive approach, particularly because that will determine jurisdiction and use of investigative power, it is far less relevant in reduction and prevention strategies which by their nature are future oriented, directed towards behaviour and situations before they turn out into what can be defined as organised crime. In this context one should not focus unduly on a strict scientific definition of organised crime but instead concentrate on establishing parameters making the identification of the most significant indicators of organised criminal activity possible.

For the purpose of this document, the definition of organised crime is that used in the context of the Annual European Union Organised Crime Situation Report and in the Joint Action of the European Council in relation to the penalization of participation in a criminal organisation in the Member States of the European Union.

An indication of crime areas in which organised crime in general is manifested is also given in Article 2 (2) and the Annex to the Europol Convention in which serious forms of international crime are listed.

2.2. Definition of prevention

Defining “crime prevention” is also a challenging exercise since, despite many academic studies, no common definition has yet been agreed. Several academic publications have sought to break those broad definitions down into more specific components such as the reduction and anticipation of crime and (in respect of general prevention strategies) into specific topics such as law enforcement, situational prevention, developmental prevention and social or community prevention.

It is expected that the process launched by this reflection document will structure the definition of “organised crime” and “prevention” in its multidisciplinary context.

Considering the characteristics shown by organised crime, and for the specific purpose of this document, “organised crime prevention” should be understood as, “any means other than the enforcement of criminal law, that reduces the opportunities for, damage caused by, profit from and fear of what has been defined as organised crime”. This practical definition reflects the analysis of organised crime (further detailed below) and only aims at providing a general basis for the range of recommendations developed in the present document.

- Fact-finding study into anti corruption legislation, practices and bodies (University of Gent, Belgium).
10 6204/1/97 (ENFOPOL 35 REV 2) DG H II (see annex)
12 see annex
Aside from the question of definition, the Commission’s services and Europol would like to underline that it is widely acknowledged that prevention policies, whatever their scope, should include a thorough examination of their impact. This aspect is to be particularly stressed in the context of a European strategy to prevent organised crime.

3. The Organised Crime threat

3.1. The concept of organised crime

Understanding the concept of organised crime is important when considering measures to limit its impact. Should organised crime be considered as a set of single crimes, limited to the profit taking of the different individual offenders or facilitators, or should it be considered as a set of related crimes, completed as soon as they all form a closed chain of single, but inter related crimes (“occasionally type” versus “Mafia type”).

Research on organised crime in some countries of the European Union has shown that the image of organised crime has been influenced by American experiences for too long. Most criminal groups are not hierarchically organised and are not constituted out of one single ethnic group of people. Instead, the image of specific and opportunistic criminal networks seems more accurate.

The findings of the Member States, according to their contribution to the EU Organised Crime Situation Report, point in the same direction: organised crime groups more often show an opportunistic character, in the sense that “there is a move away from criminal specialisation to criminal diversification. The traditional hierarchical structures are being replaced by loose networks of criminals, linked to a quick and dirty profit-making network (most of them in the area of drug trafficking, illegal immigration, trafficking in human beings, fraud, smuggling of contraband, robberies and money laundering). They are often entrepreneurial, flexible and established for specific short time purposes or activities and are able to respond to changing markets. This will further diffuse the target for law enforcement agencies. What specific products or contraband are handled is of little consequence. Profit is the overarching reason for the involvement in criminal activity”.

The major threat of organised crime for society is that criminal networks develop a strong economic and “political” structure in society through legitimate ways. The underlying motive for such criminal penetration is the opportunity to make a profit quickly with little risk, unhindered by rules or just making use of weak rules, circumstances and “cover techniques” (through legal persons for example).

The probability that organised crime recruits its “opportunistic” specialists progressively in the legitimate sectors themselves strengthens this situation. However, the role that facilitators play within and between criminal networks is often ignored. Key figures, like the ones who falsify documents or who render financial,

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13 As an example, a recent major investigation after the smuggling of Chinese people (the Dover catastrophe) confirmed that the tasks or chains to successfully complete the whole series of this crime were well divided between the country of origin, transit countries and the country of destination, with a large degree of independence. It had a multi-ethnic composition and made use of existing economic and administrative logistics.
administrative or legal services, etc… do not get the attention they deserve, both for repressive and preventive actions.

The threat is also worsened by the use of new, highly sophisticated technology and by growing internationalisation of criminal organisations.

The development of new technologies contributes to a rapidly-changing picture of organised crime. What was local may become global. For example, whereas in the past stolen property was offered and received physically at local level, e-mail facilities enable offer and demand to meet and transactions to take place within different jurisdictions. A number of types of organised crime have therefore a global impact requiring more and better co-ordination and analysis both at national and European level.

More generally, institutionalised control and enforcement mechanisms have difficulty keeping pace with the speed of social and technological developments. The result may be a lack of knowledge about the level and nature of innovative illegal activities and therefore of the level of threat. Consequently, measures taken at EU level to anticipate, prevent and/or reduce organised crime cannot be entirely effective.

Moreover, although organised crime is a global phenomenon, its roots, profits and consequences can be seen at local level, even if sometimes not recognised as being organised crime related. Supply of and demand for illegal goods come together in the local communities. These communities need to be better informed about the capacity of organised crime to penetrate day-to-day life and about the impact this may have. Existing local, regional and national prevention platforms for volume crime could therefore be useful communication tools in this respect.

Finally the effect of organised criminality on economy and society is increased by the limitation on resources and co-operation of law enforcement agencies and the so-called “first-line defenders”.

It should be underlined that the law enforcement methods, often oriented towards dismantling the top of a criminal organisation, may consume many resources without being always however, the most effective in terms of reduction. In addition, investigating the infiltration of criminal profits into legitimate sectors and studying what can be done to prevent it, require knowledge and expertise which may be lacking within the law enforcement and public prosecution services.

3.2. Organised crime in the European Union

Studies and criminal investigations have shown the side effects of the opening up of markets and dismantling of barriers. These do not only attract more regular trade and activities, but also have the potential to facilitate illegal activities.

In this changing world, states have often an incomplete picture of the threats and risks at stake. The environment within which they operate moves as well. They have to exercise their competence in an increasingly European and international dimension. In addition their action to combat organised crime cannot rely only on regulatory provisions implemented by the public authorities but also, increasingly, on elements of control they have to define with economic operators.
How to protect legitimate business, and increase integrity and good governance, both within the public and the private sector, are key questions to address when trying to shield the society against organised crime.

But appropriate and proportional defensive measures require as complete a view as possible on the nature and scope of organised crime. Analysis of the threat at local, national and European level is clearly a precondition to this objective. The data provided should allow for adequate diagnosis and contribute to define countermeasures at all levels.

Although fragmented, available data about organised crime provides sufficient evidence to justify other than traditional solutions to limit its volume and negative impact.

4. Organised crime and prevention approaches

At least four different types of crime prevention theories have been developed, focusing on:

- Child development, which tries to influence or control risk factors in early childhood;
- Community development, which tries to strengthen the economic viability and social cohesiveness of local communities;
- Social development, which is based upon the assumption that the level of crime can be decreased by tackling poverty, unemployment, and poor education among other factors;
- Situational crime prevention, which comprises opportunity-reducing measures, directed at highly specific forms of crime. It involves the systematic design, management, or manipulation of environmental settings for these crimes; and makes crime more difficult and risky, less rewarding and excusable.

While not neglecting the first three approaches’ contribution to the prevention of organised crime, the Commission’s services and Europol have more particularly examined how the application of the situational prevention theory could have a direct and quick impact on the nature and level of organised crime. The potential to apply the situational prevention theory to organised crime has been underlined recently by the United Nations.

As a result of their analysis, reducing the facilitating opportunities of organised crime by closing existing loopholes, evaluating and reproducing good practices, in combination with an effective repressive approach, seem very promising.

As further developed in this document, the application of the situational prevention approach would help to identify many possible points of policy intervention.

It is also an approach which is suitable for the partnerships within and between the public and private sectors. These are considered as central when looking at anticipating or preventing efficiently organised crime since, to a large extent, organised crime needs society, is among society and can only be successful thanks

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14 A/CONF.187/7 United Nations 10th Congress "effective crime prevention: keeping pace with new developments"
It makes use of institutional misconduct, lack of control or supervision, loopholes in legislation or administrative procedures, incoherence and different kinds of "grey" zones in and outside the EU. That is one reason why the so-called "first-line defenders" within the different economic, financial, and administrative sectors should play a key role, in addition to law enforcement agencies, in the prevention of organised crime.

It does not mean that other techniques are irrelevant in the context of organised crime. For example, influencing the offender not to get involved in organised crime is very important, even if offenders often choose this "alternative" way of life or criminal career and may be reluctant to make any radical changes. Key approaches should also include effective intervention by, for instance, school liaison, police mentor-ship of at-risk youth and peer mentor-ship, although these interventions are often qualified as general or "volume" crime prevention.

In fact, there is a need for a continuum of options to prevent the development of organised criminality, ranging from prevention to repression and re-integration.

In this context, the Commission’s services and Europol have analysed a number of issues and are proposing new working methods. While innovative in many ways, this would not, apart from those working structures which are proposed, necessarily imply setting up new structures and mechanisms but should lead to the enhancement of prevention in existing policies or instruments combating organised criminality.

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15 For example: The profit potential of high-value cargo with a ready market has been discovered by both organised and international crime. Shipment of drugs is paid with stolen high-tech cargo that is shipped abroad again and sold on the legitimate local or international market elsewhere in the world for a fraction of its value: A simple way to launder the profits out of illegal drug trade via other routes than the banking system.
II. The cornerstones of an integrated strategy to prevent organised crime

Reducing the factors which facilitate or promote it is the key to decreasing effectively the impact and scope of organised crime. The analysis carried out intends to propose an innovative and fully integrated approach, giving answers to those four strategic questions about “what objective”, “implemented by whom”, “where” and “how” an EU policy on prevention of organised crime could be addressed and put into practice.

As a result, the proposed strategy would have the following cornerstones:

- targeted at **opportunity reduction**,
- implemented by **multi-disciplinary partners**,
- within their own **process**, and
- aimed at **transparency in preventive action and administrative regulation**.

Reducing crime opportunities is the main objective of the proposed approach.

Opportunity reduction has been in general analysed in the context of the situational prevention approach, and so far mostly applied in relation to ordinary or volume crime. It is aimed at:

- increasing the difficulties of offending (target hardening; access control; deflecting offenders; controlling facilitators);
- increasing the risks of offending (entry/exit screening; formal surveillance; surveillance by employees; natural surveillance);
- reducing the rewards of organised crime (target removal; identifying property; reducing temptation; denying benefits);
- removing excuses for organised crime (rule setting; stimulating conscience; controlling; facilitating compliance);

Applying the situational prevention techniques to organised crime is promising. Since organised crime consists of a number of chain parts, each of them having an elementary role to play to successfully complete the whole series, closing one opportunity in the chain may lead to the successful disruption of the whole process. In addition, the rationality and high motivation of the offender in the context of organised criminality assumes that the technique could have an even greater impact.

Further analysis and research are needed however to tune situational prevention techniques to the specific character of the prevention of organised crime.\(^{16}\)

\(^{16}\) The results of a research undertaken by the Crime Prevention Council of Sweden with regards to the pre-assessment of new or existing legislation could, among others, usefully be further considered.
Understanding the problem and evaluating the effectiveness of countermeasures is crucial in developing a strategy and taking preventive actions. This is even more important in the context of situational prevention and crime opportunity reduction.

Therefore, the approach proposed is largely based on knowledge (section 1), relying on innovative processes in data gathering and analysis, and oriented towards prioritisation of action (section 2).

More specifically, this approach should tend to:

1. allow for a fuller analysis than simple descriptions of modus operandi only;
2. lead to the recognition of crime indicators;
3. be used in the day-by-day processes of different actors in their sectors to prevent penetration of organised crime.

In this context, particular attention needs to be paid to the following issues:

- collection and analysis of modus operandi data of committed crimes, in a structured way;
- study, collection and analysis of the spectrum in which such crimes are committed, in a structured way;
- studies of those particular events where the logistics of organised crime need the (un)witting co-operation of legitimate society (script analysis);
- better understanding of the calculating criminal who exploits crime facilitating opportunities;

To achieve those objectives, all segments of society should be committed to the implementation of the strategy (section 3).

A number of tools have been recommended in order to put in place a strategy which should be:

- integrated into the prevention actors’ process (section 4),
- supported by the share of expertise, knowledge and by enhanced research efforts (section 5),
- recognising transparency and the rule of law as a core issue in the prevention area (section 6).

Resources devoted to prevention activities, and in particular financial resources, are the last key element when considering sustainable efforts towards establishing a European prevention strategy (section 7).
1. Knowledge based

1.1 Sharing Intelligence and Information

Considering its hidden position, the current picture of organised crime is more an impression than an actual reflection of its true situation. The differences between the data available and the results of periodical victim inquiries among citizens and business people are illustrative in this respect. In fact, information about the threat and volume of organised criminality is strongly dependent upon priorities and available resources within Member States’ law enforcement agencies and criminal justice systems, and available information and resources from private industry or from the academic world.

Since intelligence and information is incomplete and fragmented, improving the horizontal (cross-sectorial) and vertical exchange of information and intelligence and developing appropriate networks should be the basis on which to further deepen knowledge on organised crime.

Sharing information and intelligence raises many questions in terms of availability, safety, security, reliability and professionalism, among others.

Confidentiality, in particular, is a key issue, not only in terms of data protection, but also in terms of personal safety or company interests.

However, in the context of prevention, making the distinction between “persons related intelligence” and “crime-context” related intelligence would be particularly relevant. A number of these reservations could then be more easily dealt with if the intelligence is not per se related to personal data.

The role of law enforcement and criminal justice agencies in collecting and analysing data on organised crime is crucial. Crime opportunities become more identifiable through criminal investigations and court procedures. Specific criminal investigation instruments, like for instance wire tapping, observations, witness reports, and undercover operations among others, may provide unique modus operandi data about the crime in question.

Much of this data, however, is left aside because the primary goal of the police investigation itself is simply to collect evidence to dismantle the top of a criminal organisation. As a consequence, police data usually contain information about the crime itself (when, how and by whom), rather than its context (why and what has facilitated it) which could be useful from a preventive or reduction perspective. In addition where a case has been dropped for lack of evidence, the available data is generally not then used for wider preventive purposes.

If properly carried out, the criminal intelligence function developed by criminal justice could effectively pinpoint, predict and forecast organised criminal activities in a way that, besides combating it, might also prevent or reduce it as well. For that purpose, information should be gathered as regards:

- the overall administrative and legislative environment which often shows crime-facilitating circumstances or loopholes. If the latter are detected, they are not necessarily collected in a consistent way. Hence a valuable source of knowledge
that would enable competent authorities to take preventive action to organised crime is neglected.

- the role that facilitators or promoters play (e.g. front men or the ones who render financial, administrative or legal services) within and between criminal networks, or between the networks and legitimate economy/society.

However, vital information and intelligence on organised crime are not limited to those recorded by law enforcement or criminal justice in general, but are also available within other public services or within the economic sector (through control functions, risk analysis, corporate security and safety functions).

All this data is needed to form an adequate diagnosis of organised crime and of crime opportunities. They must be collected, processed, analysed, and prioritised according a commonly agreed process. This is the essence of a knowledge based approach.

In depth study, definition and organisation of this work from a multi disciplinary perspective should be done to make possible substantial steps in the prevention of organised crime.

1.2 Collecting, processing and analysing data within an information collection plan

Ensuring an efficient and adequate information flow between different levels and partners requires further reflection and study. Collecting, processing and analysing data would be facilitated if taking place within a collection plan as part of a knowledge-management reflection, in a multidisciplinary perspective.

The framework for this plan, including the numerous logistical challenges it also implies, should be studied. In this context, Member States (public administration, criminal justice, law enforcement), Europol, Commission, other relevant EU Institutions, the academic world and private industry, should link together in order to address the following two main questions: “How do we organise data and turn data into knowledge ?” and “How do we turn knowledge into policy prescriptions ?” and to define the conditions under which information should be provided by and accessible to the different partners.

Setting up at European level a specific working group dealing with “Knowledge-management” would facilitate this work which, at the end, should improve the level of information available to involved partners. The EU Organised Crime Situation Report should also benefit from it.

Three steps should guide the development of this plan:

- Definition of what information and intelligence is needed, at what level, and who needs and should have access to what data (user requirements, product definition and access definition). The formulation of the needs should be defined in a multidisciplinary context with strategic partners.

- Harmonisation of relevant data such as modus operandi and crime indicators.

- Definition of proper tools, such as database management, statistical tools and tools for compiling, storing, summarising, analysing and dissemination of information.
The plan should serve as a guideline for the Member States and the European institutions and bodies in the development of their own data infrastructure. It should be compatible with other data collections, in order to provide a more reliable view on the nature and volume of organised crime. In fact information and intelligence should not necessarily be centralised but might be made available, for example, through an index system.

Valuable work has already been carried out, in particular within the Council’s Contact and Support Network, with the Member States (HENU’s) in co-operation with Europol, in the context of the EU Organised Crime Situation Report and in developing an Intelligence Model Framework\(^\text{17}\). This work was done from an enforcement perspective but the integration of prevention into the model would be a logic step towards a more balanced approach between prevention and repression in law enforcement working methods. Europol should go on and intensify handling law enforcement intelligence and information oriented towards prevention.

The experience of the Commission, in particular with the Customs Information System in the field of customs cooperation, and in the setting up of an intelligence unit within its anti-fraud Office (OLAF), could also be usefully considered.

1.2.1 Data Analysis Methodology

In order to complete a diagnosis which can then provide the basis for collaborative action, analysis, through the collation of data and compilation of theories and solutions about a problem, is necessary.

To do so requires an information process from the individual level of data collection to an aggregate form.

It also presupposes availability of relevant data at appropriate levels. However, research in disciplines such as economics, political sciences, sociology, psychology, criminology, as well as operational research, cannot always rely on sufficient relevant data since those data are often not available or accessible. The situation is the same in analytical work.

Analytical capacity within law enforcement agencies of the Member States is a rather new tool and, if available, is usually applied within the context of evidence gathering but not for detection and anticipation of crime-facilitating opportunities and crime trends. Threat assessments, situation reports and risk assessments (identification of vulnerable areas) carried out by law enforcement agencies are often descriptive analysis products. These products should, in addition, be turned into explanatory (understanding the causes of crime) and predictive (prognosis of future developments) analytical products.

For that purpose, further use of explanatory analysis would be helpful. In such a scheme, criminal organisations are analysed in a systematic way in all their dimensions:

- structure of the criminal organisation;
- operations such as production, logistics and support;
- motives from a social-cultural background;

\(^{17}\) EUROPOL 3100-07 rev 8 CRIMORG 167/98
and environment, such as the criminal context (criminal networks), the market of operation and the interaction with official institutions.

On this basis it is possible to:

- stimulate systematic knowledge gathering about the phenomenon of organised crime, dimensions and coherency;
- evaluate the effectiveness of the investigation;
- analyse the weak points of a criminal organisation;

A model (see "spectrum analysis" scheme below), developed a few years ago, can illustrate how Member States might apply explanatory analysis in the context of crime prevention. Such a scheme would help to analyse which repressive and preventive actions can be taken to affect organised crime.

Developing risk assessment is something already quite common in industry which often applies a Qualitative Risk Assessment Process on the basis of the analysis of threats and vulnerability. This results in a risk calculation, risk evaluation and finally an audit of probability of countermeasures before practical and adequate actions are taken.

It is recommended therefore, in order to improve the quality of analytical products, that the gap existing between those who study organised crime from a multi disciplinary perspective (mainly academic analysts), police experts and analysts, and policy makers should be bridged.
This would allow a more comprehensive approach to the analysis of organised crime.

A standard analysis methodology among law enforcement agencies of the EU Member States would facilitate comparison of results and should therefore be further examined and where possible introduced.

In addition, law enforcement, research and industry should take initiatives in order that their analysis activities and products are more complementary.

1.2.2 Data processing

Data processing has to start at local or national level by collecting information and intelligence that should be aggregated at European level through operational and strategic analysis (upstream), for use at all levels (downstream). Because organised crime profits are often generated, or damage inflicted, at a local level, the need for local authorities also to have access to analytical products should be underlined.

Effective monitoring of organised crime by competent authorities also requires that data not related to individual cases are made available by both the public and private sector which should be considered as “co-responsible partners” in crime prevention.

First steps to better manage organised crime-related-data at European level have been made by developing the Intelligence Model Framework between the Member States and Europol.

However, this is not enough to ensure an effective data process practice between different national or European public institutions and private organisations. It is necessary to adopt a “culture” of sharing knowledge for agreed purposes.

In this respect one priority is to define the channels (legislation, “soft laws” or contracts) for exchanging data. Specific attention will have to be paid to data processing between law enforcement and non-law enforcement partners in terms of data protection.

This process should also take into account the general guidelines related to the content and processing of information which have been developed in the framework of the Organised Crime Situation Report. This work needs however to be completed for preventive purposes, in order to further structure data and process, along the following lines:

- data specification and standardisation,
- streamlining the data process, and
- improving the reliability of data.

1.3 Statistics

To take appropriate action, clear insight is needed in crime patterns and differences in crime control within the EU. In the context of closure of crime opportunities, the lack of available statistics and the difficulty of international comparison are particular shortcomings. Preventive interventions should be evidence based, which means that results should be reflected in the available figures of illicit or regular markets, or
figures from law enforcement, criminal justice or victim inquiries. Possible negative side effects of closure of opportunities, such as displacement, should be monitored as well.

Among the shortcomings in existing national, European and international statistics research, the following could be addressed in priority:

- Observing differences between countries in “opportunity structure” and public and private efforts to control crime (prevention, detection and sentencing) is a key issue. However despite initiatives by the UN and the Council of Europe, major difficulties still remain when comparing international crime data: differences in laws and definitions of legal terms; heterogeneous statistical classifications; procedural differences among countries; ambiguous coding structures; differences in the units of count used.

- The successful experiences in different countries where intervention strategies have been effective are not systematically shared. More factual data are needed on the law enforcement systems of the EU-member states and the effectiveness of their interventions and much could be gained in identifying best practices.

- Estimates of the volume of financial and economic crime are lacking. In particular, very limited information is available on illicit markets. For example, only fragmentary information exists on drug markets and no international comparative figures are available on illicit markets such as those for firearms and people.

- Statistics related to markets and systems of markets would benefit to the analysis of organised crime. The dynamics of prices and the variation of prices within countries and between countries indicate how these illicit markets function\(^\text{18}\). Furthermore, much remains to be done in examining the links between markets (e.g., markets for drugs and precursor chemicals), through production, logistic or through the legal and financial services required.

It should be underlined that even if the collection of these market data is not primarily aimed at estimating the overall size of transnational crime, a detailed analysis of illicit markets may help to improve the reliability of existing estimates. In this area, other data than those collected by law enforcement agencies could provide important insights into markets.

To conclude, greater availability and exchange of statistical information within the European Union should be a priority. Efforts must be made towards common definitions and harmonisation of terms. A co-ordinated initiative to provide concerned partners with relevant benchmark studies, strategy and policy reports should be envisaged.

1.4 Developing organised crime characteristics, indicators and risk profiles

Organised crime cannot occur without the support of third parties and the use of legitimate logistics and structures. The borderline between illegal and legal activities, criminal environment and legitimate society, is tenuous and must be studied further.

\(^{18}\) For instance, unrestricted markets have little price spread. Large differences in prices indicate that markets are obstructed, though other factors also play a role, such as the opportunity structure.
Studies on “criminologistics”, i.e. logistics of organised crime, have received too little attention considering their potential value for the prevention of crime. Studying, monitoring and evaluating the logistics of organised crime would help to detect loopholes, facilitating circumstances and criminal strategies and tactics. Experiences within customs organisations have given promising results.

This process should lead to the availability of a more precise collection of characteristics, indicators and risk profiles of organised crime schemes, which could be particularly useful to the “first line defenders” for the detection and anticipation of the phenomenon in their daily activities and processes.

To facilitate the collection and dissemination of these indicators, a Directory could be established at EU level.

**Summary of actions to be implemented**

- Further study of a knowledge framework for the prevention of organised crime, including a data collection plan, data process scheme and prioritisation mechanism within a “Knowledge-management” working group;
- Studying data protection and data security concerns in the context of non-personal data sharing between “strategic” partners;
- Study of a standard EU analysis methodology for organised crime;
- Development of organised crime indicators, characteristics and risk profiles and establishment of a Directory at EU level;
- Further studies to improve availability and comparability of statistics at EU level (including victimisation polls), and on “criminologistics”;

**2. Oriented towards prioritisation of action**

The Amsterdam Treaty, the Tampere European Council and the High level Conference in Praia da Faleisia have given general orientations for future action in the prevention field.

Within this general context, more focused actions oriented towards regularly assessed priorities must be taken. For example, since financial gain and low risks are the biggest factors in motivating involvement in organised crime, eliminating or reducing the anticipated rewards in combination with a high risk of arrest are the

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19 For example, warning signs, characteristics or indicators can be identified for a “bustout” fraud scheme (a company set up to fail from the outset): company with a short life; fraudulent financial statements; false credit references; cash basis operation; mainly temporary employees; warehouse full of high volume, low cost items; unusual banking activities; taxes not paid; same attorney for same type of debtors...

In the transport sector, crime indicators may be: inefficient logistics (no cargo on way back), weak financial position, sale of “deck” cargo far under wholesale prices, cash-payment in buying transport vehicles, out of balance between receipts and expenditures, operating under market-price, use of temporary drivers, use of rented licences…
most promising to limit the scope of organised crime. The use of Information Technology or Internet facilities in the context of organised crime are also areas of priority concerns.

However, prioritisation is an ongoing process. Proposing preventive actions, whether at national or European level, should be supported by a continuous analysis of the upcoming threats.

To do so at European level requires a periodic assessment of the situation of organised crime at national and European levels, and presupposes the definition of common norms. These norms could for instance include:

- the social, economic and political impact on the European Union;
- the kind of offences committed;
- the geographical dimension (number of Member States affected);
- spreading risk within the European Union;
- the findings of related strategic analysis.

These norms could form a common basis on which priorities might be identified. In this context, the Organised Crime Situation Report is a first basis of information for the Member States and the European Union institutions. However, the picture given by the Report of the threats is still far from complete and it is currently under consideration to sharpen its actuality and reliability.

In this context, Intelligence Reports, Crime Pattern Analysis Reports, Strategic Analysis Reports, Research Reports and results from Exploratory Meetings would be necessary additional sources of information as they provide more detailed information about the character and dimension of a specific crime area and related threat.

Although prioritising measures against organised crime should have a European dimension, the common norms needed at national level to support that process are not yet systematically available. A few Member States have developed such concepts for action against the most threatening crimes.

At least two types of concepts have been developed:

- norms for social, economical and political impact, based on the best available evidence (UK),
- norms based upon encroachment of the integrity of the body and property or the personal/business privacy; financial gain and financial effect; effect on authorities; effect upon legitimate markets; and availability of counter-strategies (Netherlands).

These examples deserve further consideration. Member States and concerned partners against organised crime are invited to examine related norms in order to assist in establishing a mechanism for common (European or national) preventive action.
Summary of actions to be implemented

- Study and research on a normative approach of setting priorities for the prevention of organised crime at national and European level;

- Development of future oriented risk assessments at European and national level;

3. Committing all segments of society

Organised crime harms the whole economy and society. In response, the whole society should contribute to its reduction. But to make this contribution effective, it is essential that a common strategy is accepted and implemented at the different sectors and levels concerned. For that purpose, concerned partners such as policy makers, law enforcement, private sector and professional associations, academics and civil society representatives, are invited to work together, in partnership, to prevent organised crime.

Effective partnerships require specific tools and are dependent on the will and ability of partners to contribute effectively to common prevention action.

Such partnerships might work towards filtering organised crime out of the regular processes of groups at risk;

- at operational level, for instance, through crime indicators,
- at administrative level, for instance through specific legislative or administrative rules,
- at business level, through memorandums of understanding or self-regulating tools such as codes of conduct or charters.

One of the main objectives of partnerships is to facilitate the sharing of resources and expertise.

In this context, the conditions and difficulties in the exchange of information between partners must receive particular attention. Confidentiality for instance should not prevent appropriate collaboration in the prevention of organised crime.

To develop multidisciplinary partnerships, national networks and contact systems may play a role.

At European Union level, partnership is at the core of the proposal, presented by the Commission in its communication20, to create a European Forum for the Prevention of Organised Crime. Such a Forum, as a part of the proposed strategy, aims to give an impetus to the prevention of organised crime within all partners’ fields of activities and to contribute to the creation of a cross-cutting and ongoing vision on the prevention of organised crime. It shall have to interact with other existing discussion and working forums in specific sectors (for example the

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20 See the Communication of the Commission of 29.11.2000
COCOLAF working group on the fight against fraud and the protection of the financial interests of the Community), both European and international.

The Forum should have a wide and flexible membership. Representatives of the European institutions and bodies working on prevention, national coordination bodies, relevant public services and in particular the judicial and police authorities, local and regional authorities, business and financial circles are the most likely to be involved. Moreover, relevant associations and occupational circles - the professions, the media and security organisations - must be involved, depending on the topics treated.

The Forum will function as an advisory platform for promoting the approach laid down in the Commission’s Communication and in this report by : contributing to integrating prevention into EU policies; identifying and advising on upcoming threats; contributing to setting priorities for action and research; promoting assessments of project results and their transferability; identifying training needs and proposing new courses; promoting self-regulation models; stimulating policy and project initiatives.

As a flexible structure, and depending the topics treated and the products expected, the Forum would meet in “plenary” meetings, then working on identifying crosscutting issues or in working groups, which would be set up on specific issues, whether thematic such as trafficking in human beings, drugs or corruption related issues, or transversal such as transport or finance. The general coordination of this work (report on results, proposal for action) would be ensured through regular information given to the plenary and with the support of the secretariat of the Forum.

Ensured by the Commission services, the secretariat of the European Forum will have the task of promoting initiatives while ensuring proper co-ordination with the different working groups involved in organised crime prevention issues.

Communication between the members of the Forum would be ensured by the secretariat and could also be supported by a virtual network (web-site). This virtual network could, with different levels of access, be multi functional in the sense that exchange of information on good practice, organised crime indicators and exchange of expertise would be included.

**Summary of actions to be implemented**

- Establishment of the European Forum for the Prevention of Organised Crime;

**4. Process oriented**

Organised crime has shown a remarkable ability to spot weaknesses and or loopholes in the day-to-day functioning of the legitimate economy and administration. Scanning those loopholes, weaknesses and attempts to commit crimes are a central part in an opportunity-reduction based strategy. However, it will only be fully effective if carried out as part of the working process of all those
concerned by the prevention of organised crime, in particular within public administration, criminal justice, legislative or business process. Their commitment is a central issue to better detect and prevent the infiltration of organised crime through legal channels.

To facilitate this approach, it is proposed to develop a methodology which would facilitate the monitoring and the anticipation of organised crime activities within the sectors most at risk. This methodology should aim at developing an “action-oriented” diagnosis of organised crime, and facilitate the dissemination of good practice.

To do so, the so-called Action Research methodology\textsuperscript{21}, which has been developed in areas where academics and law enforcement worked together (in the context for example of problem oriented policing\textsuperscript{22}), could be useful.

It is based on the following steps:

- Scanning (identification of specific crime problems);
- Analysis (systematic data research about the situational conditions rise to the crime);
- Diagnosis (systematic study of ways to block opportunities for these crimes);
- Response (implementation of measures by competent authorities);
- Assessment or Evaluation (does it work or not work) and
- Dissemination of good practice (reproduction of promising solutions)

These steps help to identify the responsibilities and timing of those who should be involved in defining preventive action. In this scheme, law enforcement, “first line defenders” and criminal justice have a particular competence in the scanning and analysis processes, considering their investigation, control or prosecution powers. Authorities in private and public sector, shall benefit from it and would have a responsibility in defining effective responses and assessing them.

\textsuperscript{21} Gladstone 1980.

\textsuperscript{22} The opinion that greater operational effectiveness of the police is not through improvements in organisation and management, but through the detailed analysis of the daily problems handled and the devising of tailor-made solutions.
One of the positive effects expected from using this methodology in the follow-up of crime opportunity detection would be to enhance and facilitate the evaluation of the results of the preventive actions taken. This is a precondition to list preventive measures as good or bad practices.

Whether applied at strategic or operational levels, such a methodology should provide useful insights of crime opportunities and facilitate the definition of preventive counter-measures. It would also contribute to the legislation making process when looking at strengthening legislation against loopholes or crime facilitating opportunities.

4.1 Monitoring organised crime as part of a strategic process

A strategic view on the character and volume of organised crime is needed in order to set priorities and have a reference for evaluating the effectiveness of counter-measures.

The structural assessment at national level of the nature and volume of organised crime may require the development of “organised crime monitor”, a systematic analysis of completed investigations of criminal groups by researchers and experts to get an accurate description of organised crime. The methodology provides for an in-depth analysis of the available judicial files, evaluation interviews with investigators and prosecutors, and interviews of actors in the criminal scene and within the economic and social sectors.

Such a monitor has been developed in The Netherlands and provides strategic information on the nature of criminal groups; the way they are organised; the role of
social relations; their dynamics; the specialisation and interactions between criminal groups and social environment; the existing opportunities and risks; and the implication for public policy.

This methodology should be further studied to examine if and how it could be introduced in other Member States. The results would also be very valuable for the EU Organised Crime Situation Report.

4.2 Casting prevention in the criminal justice process, a “Twin-Track” approach

The traditional judicial “track” aims at collecting evidence about committed crime, the criminals involved and its proceeds. With a view of limiting crime facilitating opportunities, a new track could be developed in parallel within the judicial process itself. Instead of searching for evidence of the crime/criminal relation, this track should aim at the detection of crime facilitating or promoting *opportunities* in order to influence the actual and similar crime context situations.

Tracking crime opportunity should start even in the planning and pre-investigation phase of every organised crime case in order to anticipate adequate preventive action during and/or at the end of the investigation.
The approach would tend to combine problem-oriented policing and situational prevention. As shown in the diagram, the backbone of this “Twin-Track” approach would be the information and intelligence collected for evidence purposes and which may lead to the identification of crime facilitating or promoting opportunities in order to close them. A variety of disciplines (academics and professionals) may be needed to detect, understand and further explore these promoters and to identify them as indicators of organised crime.

The approach should also benefit from the co-operation of the private sector. The detection of suspicious criminal activities and the collection of evidence is not the exclusive domain of criminal justice since private security services co-operate more and more with law enforcement to detect criminal activity and collect evidence as so called "first-line defenders" (such as accountancy, corporate security department or internet service providers).

It is proposed to further study the feasibility of a methodology for a "twin-track" approach in which opportunity detection and closure would have an equal role to play in relation to traditional evidence gathering and conviction.
4.3 Including prevention in the legislation making process

The scanning of loopholes and crime facilitating opportunities has a particular virtue when applied to the legislation making process. When new legislation is introduced, there is always a risk that it will be abused. It is the same for existing legislation. Anticipating risks at legislative level implies evaluating new legislation and assessing existing legislation. Since analysing the shortcomings of existing systems, evaluating solutions and proposing new legislation is part of the legislation making process, risk assessments and diagnosis should be further developed within it.

The “crime proofing” diagnosis should be applied in two directions:

- introducing regulations aiming at reducing the opportunities for crime.
- drafting legislation and administrative procedures to avoid misuse or abuse, and to facilitate enforcement activities.

At national level, specific inquiry committees and/or specific referral procedures may be used to carry out this work. In addition to law enforcement and criminal justice practitioners, experts may also be involved. Audit Offices also play an important role. Their assessment of the expenditure justifications and of the efficiency and effectiveness of government policies can participate in the detection of facilitating or promoting circumstances for organised crime.

These professional categories should, when it is not the case, be brought together to assist in developing and applying “crime-proofing” instruments and techniques.

At European level, the concept still needs fine-tuning but would benefit from the development of various instruments aimed at better anticipating risks suggested in this report. As far as it is concerned, the Commission will endeavour to evaluate existing and new legislation in order to improve their “crime-proofness” in a way that would supplement the fraud proofing which it has committed to apply in its global anti-fraud strategy. This move also corresponds to the commitment taken by the Commission within its own reform activities to enhance fraud prevention and good governance.

A Falcone project, still underway, will bring a comparative analysis of national “crime-proofing” techniques in the EU Member States.

Summary of actions to be implemented

- Study the applicability of the Action Research Methodology in order to facilitate the detection of crime opportunities, the evaluation of preventive measures and the reproduction of good practices;
- Study the applicability of an “Organised Crime Monitor” methodology in the Member States, with a view to contribute to the EU Organised Crime Situation Report;

23 See Communication of the Commission of 29.11.2000
Study the feasibility of a “Twin-Track” methodology in the operational processes of law enforcement and criminal justice;

Development of “crime-proofing” techniques at national and European level;

5. Supported by sharing expertise, good practices, and by enhanced research

5.1 Sharing expertise

Opportunity reduction requires analysis and diagnosis for which skills and expertise must be available. However, finding the references to available expertise is made difficult by the fact that this knowledge is not collected and stored in a structured manner. For instance, the reference lists which usually result from research projects are in general not shared and re-used in other analysis activities, research or surveys or in the preparation of new policy projects.

A multi-disciplinary Directory of excellence should be set up to assist policy makers, researchers, and analysts in finding the appropriate multidisciplinary expertise required for diagnosis and advise purposes.

This directory would enable individuals to:
- reduce the time spent on finding and selecting the right references;
- share references with others;
- identify the need of expertise;
- structure data collection on expertise.

A feasibility study has been carried out supported by the Falcone Program. It proposes a model at an EU level offering assistance by experts and supported by a database or information server system to store expertise data. This system should function in line with the Directory of Crime Indicators and the Database on Good Practice and would have the following tasks:

- providing consultancy to Researchers, Analysts and Policy Makers in terms of types of valuable expertise and bringing people working in the same field in contact.
- providing ad hoc search and support services to Researchers, Analysts and Policy Makers, in: scoping search requests, finding and tracing References, providing services in contacting References (e.g. sending out questionnaires), evaluating the quality of References, providing results of the prevention research & analysis process in terms of documenting used References and their quality;
- building up meta-information on search patterns and used References;
- building up communities around search patterns or areas of expertise e.g. by bringing people with the same expertise and information needs together in a more structured way, for instance through newsletters or an on-line service;

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24 99/Falcone/155 (MoJ Portugal/UK/Europol)
5.2 Sharing successful and less successful practices

The Council Resolution requested to further study how to make available at European level information on successful or less successful approaches, and to explore the possibility of transferring successful approaches to different situations. Existing experiences show that good practice database could enable policy makers and practitioners (from different sectors) to plan and manage their preventive operations more effectively. 

More evidence is becoming available about the relative impact of different prevention methods and practices. Some have been shown by studies to be effective, at least in certain situations, an even larger number are promising, even though solid empirical evidence that they have impact may still be lacking. There are also other methods which have not had a significant impact, at least in certain situations.

A Falcone funded feasibility study has been launched with a view to examining how to collect at European level a pool of knowledge about what works and what doesn't work. Real profit could be taken out from a database which should not contain fixed, superficial 'cook book' recipes but rather seek to help the development and application of generic principles and strategies, based on evidence of success, and attuned to the particular crime problem and its context.

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As shown by the Falcone study, the database could contain the right information to enable practitioners to:

- retrieve project entries so that they can generate a short list of candidates for replication, searching on any of a range of features;
- decide which project to replicate - or which elements to adopt to suit their own situation;
- choose between alternatives and put together combined packages which are practicable and cost effective.

So far, the study has made clear that the availability of good practice examples on organised crime is rather limited in number and value (lack of evaluation). A step by step approach should therefore be agreed for the database concept, development, collection and maintenance in an environment that provide ICT, database management and expertise in crime fields (criminology, prevention and good practice).

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25 There is anecdotal evidence that the International Centre for Prevention of Crime database on best practices in volume crime prevention has been influential on government policy formulation, better performance of agencies, facilitated international collaboration and promoted cross-fertilisation of ideas.

26 99/Falcone/199 (UK, Sweden, Europol)
5.3 Enhancing research

Detecting crime opportunities requires a variety of research disciplines (criminology, psychology, sociology or technical related subjects among others). Initiatives should be taken to encourage the academic and scientific world to contribute through their research and studies to the understanding of the phenomenon of organised crime. This move was called for by the EU Strategy for the beginning of the new millennium.

The Commission is also considering the ways to enhance crime prevention related research, in the context of the relevant Community programmes and policies. For example, efforts in the Framework programme to strengthen the European science and research base can be a factor facilitating the development and use of up-to-date methods and techniques in the fight against crime. Life sciences for example may be of use for the future (e.g. genetic fingerprinting).

Among the many possible areas of research, forecasting the impact of economic and social changes on organised crime as part of a future risk assessment policy should be a priority. In this regard, initiatives such as the FORESIGHT programme in the United Kingdom which focuses on new technology and how it might create new opportunities for crime and crime prevention, deserve to be further considered as a possible example of what can be done at national and at European level.

However, one of the limits to current research efforts is that, so far, most are based upon literature and other open source information. Research based upon empiric organised crime data from police or judicial sources (not questionnaires) is relatively rare, and, if available, is in general carried out by governmental research units.

Now, whereas judicial “sensitive and protected information” could provide benchmarks for research, research in return could contribute to the further exploitation of this source of knowledge. It seems therefore important in a strategic context to sustain this interdependent relationship.

To do so, a European “framework” for facilitating comparative research should be considered. The main difficulties preventing successful research from delivering the necessary guidance to policy makers, i.e. resources, access, timeliness, and fidelity to the nature of the phenomena under investigation need to be addressed. Considering the areas studied, particular attention should be paid to raise awareness of safe and secure research practices. For that purpose, a set of guidelines, meeting local requirements, for researchers in protected and security sensitive areas could be established.

Developing this “framework” would be facilitated by the setting up of a “Research Advisory Group” in which the Member States, the Commission, Europol, Research Institutes, and industry would participate. For specific issues and when appropriate, the participation of other bodies involved in research, such as the EMCCDA, would be encouraged.

The “Research Advisory Group” could also consider multi-year and cross-disciplinary research needs. In doing so, it should strive for the greatest coordination between EU funded research and national research programs. Without going into the detail of research, the group would limit its work to research.

See the Communication of the Commission of 29.11.2000
guidelines. This group will have to work in connection with the European Forum on prevention of organised crime.

Following the recommendation made by the 1998 Vienna Action Plan and in line with the Europol Convention\(^28\), a Research Front-Office could be set up in the framework of Europol and could be tasked with the permanent secretariat of the Research Advisory Group. This Research Front-Office would interact with other bodies involved in research (Member States' research bodies, Commission, international and other European bodies, or private institutes). In addition it shall seek to have an overview of the ongoing research at national and European level with a view to disseminate project results and provide advice.

### Summary of actions to be implemented

- Establishment of a Directory of Expertise;
- Establishment of a Database on Good Practice;
- Development of a Directory of Organised Crime Indicators\(^29\);
- Establishment at EU level of a Research Advisory Group, for the development of a “Research Framework”;
- Establishment of a Research Front-Office at Europol, interacting with other bodies, such as Member States' Research Institutes and other European and international bodies;
- Development of future oriented risk assessments at European and national level;

### 6. The importance of transparency in prevention policies

A high level of transparency is crucial to the prevention of organised crime, as an element of good governance in public administration and of integrity in economic affairs.

Transparency is crucial to fight corruption better. Besides international initiatives within the OECD Convention, the Council of Europe, or the future Convention against corruption in preparation within the UN, it is necessary to take further action at national and European level. Specific attention is needed regarding public tender

\(^{28}\) Article 3 (3) includes a reference to the specific task of assisting the Member States through advice and research in the area of crime prevention methods.

\(^{29}\) Europol could and is willing to host these three practical tools (directory of expertise, good practice database, directory of organised crime indicators), as they are interacting with already existing mechanisms such as the centre of excellence database and the Organised Crime situation reporting mechanism. Together with these instruments, the Research Front Office would be part of a Centre of Excellence for the prevention of organised crime (a website could also be envisaged).
procedures and exclusions, whistle-blowers, financing political parties, adequate conditions of government employees and integrity of business.

Transparency is also an issue when trying to develop a comprehensive prevention strategy associating partners other than criminal justice services as has been proposed in the present document. The European charter adopted in 1999 is one example of the move launched at European level to associate “vulnerable professions” (notaries, accountants, lawyers).

However, transparency is not only a tool to improve access to information, increase the loyalty of commercial transactions or prevent corruption, it also has an intrinsic democratic value which must be taken into account. Transparency in the measures taken by prevention actors is crucial since preventive measures can lead to limits on fundamental freedoms. Subjects like preventive screening, whistle blowers, and control measures are issues which require careful consideration.

6.1 Transparency to increase awareness and develop a preventive culture

Effective action to prevent organised crime requires the commitment of the whole society. Promoting awareness about organised crime and developing a “preventive culture” goes hand in hand. Based upon the culture of legality, it could encourage, for instance, the reporting of illegal situations. “First line defenders” must be involved in monitoring their environment and in working, when appropriate, together with public officials who have the same area of responsibility.

The commitment of the business community to crime prevention is particularly important. Business responsibilities in prevention relate to its own management processes, to its customers and to its own field of activity in ensuring fair competition.

This responsible or “corporate governance” should be reflected in clear statements of the parties involved. Since well accepted crime prevention practices is probably the most effective way to commit industry, Codes of Conduct, Codes of Practice and Codes of Integrity should be promoted. When those already exist, they should include prevention of crime related aspects.

The Forum on the Prevention of Organised Crime would play an active role in promoting this approach.

Media should also be associated with awareness raising and promoting successes.

However, creating disproportionate fear must be avoided. Furthermore, increasing awareness in the private sector may raise other concerns. The feelings of insecurity, together with the limits in the public security response, have already laid the basis for the development of private security industry. This should not blur the fundamental principles of the Rule of law and should not give opportunity to entrepreneurs without appropriate qualifications for these services to enter the field.

In this context, particular attention should be paid to the relation between public and private security services, their competencies, internal transparency and data protection.
6.2 Transparency in the legal environment of companies; the registration of legal persons, their directors and the exchange of information.

In transnational organised crime, including financial-economic crimes, the use of “shell-companies” or “dummy-companies” is a usual practice and legal persons may be abused. As a matter of fact, company law appears to be a central element since the less transparent it is, the greater the possibility to exploit it for criminal purposes.

The study launched by the European Commission on off-shore centers\(^\text{30}\); has addressed a number of company law related issues. It concluded on the need to increase the transparency of company law. It also suggested that these standards of transparency should be exported to the jurisdictions which have special political and economic relations with the Union, and that measures should be taken to prevent corporations, which do not meet the required standards of transparency, from doing business within the European Union financial system.

This study has opened the way to further work. A new study was launched by the Commission at the beginning of this year to highlight provisions and practices in member States in the banking/financial and corporate/company fields which may constitute obstacles to anti-money laundering EU cooperation.

These thoughts should be completed with a reflection on Member States information regarding legal persons operating in their countries, the physical persons in charge of the legal persons (the beneficiary owners) and the relationships between legal and physical persons. National databases should facilitate the access to this information. Information about the director of a company, its shareholders or beneficiary owners, and the disqualification orders should be more easily available. This would simplify the verification of data related to a company.

Further research on how sanctions linked to company law could contribute more effectively to deter crime is needed. For example, the personal liability or the penalization of those acting as “front men” could be considered, as well as the personal liability of shareholders in the start-up phase of a company.

At European level, the experience of the European Business Register and the feasibility of an index system on legal persons should be further examined. A Falcone project\(^\text{31}\) has underlined that its effectiveness would depend on the easy access of this system to the national databases.

The access to national trade registers would be a significant tool and requires additional consideration.

\(^{30}\) Falcone project 99/Falcone/116 (Transcrime).

\(^{31}\) Falcone project 99/Falcone/144 (Asser Institute/Min. of Justice Neth.).
6.3 Strengthening the role of public administration in a transparent environment

There are situations where the public administration is in the front line of preventing criminal organisations from carrying out their activities, in particular when criminals seek to abuse allocation of subsidies or licenses are allocated for example, or subvert the public procurement process.

Therefore, the Commission has proposed in its modified directive on public procurement to assess better the quality of the bidder and make exclusion mandatory in cases where such bidder has been convicted for certain crimes. For that purpose, adjudicating authorities should be properly informed of conviction in any Member State of the European Union. A group of public procurement and criminal justice experts has been set up by the Commission to further study the issue.

More generally, the use by the public decision-maker of information from different sources, like police investigations, tax authorities, intelligence analysis and criminal justice records, can be decisive before public action is taken, even if the considerations and final decision remain within the competent authorities. Legislation is in preparation in The Netherlands providing for a specific unit to be tasked with preventive or “integrity” screening\(^3\)\(^2\). This example could be further studied to consider its possible application in other Member States.

### Summary of actions to be implemented

- Promoting the development of a preventive culture in society
- Study on the role of private and corporate security in the prevention of crime, their relation with public authorities;
- Further working on transparency in company law and in financial entities such as trusts and foundations;
- Further study the feasibility of establishment of national registration of Legal Persons and their (disqualified) Directors and of a European index;
- Study of disqualification of Directors of Legal Persons in national legal systems, based upon Court decisions;
- Further study possible measures to increase the integrity and improving the screening capacities for preventive purpose of public administration at national and European level;

\(^3\)\(^2\) BIBOB-legislation. Min. of Home Affairs/Min. of Justice The Netherlands./ “Wallen”-project Amsterdam.
7. The funding of crime prevention activities at European level

In addition to FALCONE, which aims specifically at fighting organised crime in a multidisciplinary perspective, other third pillar programmes such as GROTIUS, OISIN and SHERLOCK, as well as first pillar programmes such as URBAN, PHARE or TACIS, can finance promising projects related to the prevention of organised crime.

However these resources have limitations: they are fragmented and generally have a one year-cycle. As a result, some long-term prevention projects cannot benefit from it.

Since crime prevention requires long term involvement, funding should be made possible for multi-year projects. The Commission, having examined the need for a new programme as requested by the Tampere Council’ conclusions, has proposed a new programme in its proposed orientations for an EU approach towards prevention of crime\textsuperscript{33}. This new programme, called Hippocrates, will complement other existing programmes.

Funding for the development and implementation of an EU strategy to prevent organised crime should not be limited to public funding. Partners should be invited, within the Forum on prevention for example, to examine other type of funding which could contribute to support the strategy in most of its components: identification and exchange of good practice; strategic trends and statistics; training and exchange of personnel and expertise; research, analysis, assessments of prevention projects.

Summary of actions to be implemented

- Ensure complementarity and coordination of the existing first and third pillar programmes;
- Establishment of a new multi-disciplinary funding program for the prevention of crime (Hippocrates);

III. Conclusion

The report elaborated by the Commission’s services and Europol aims to pave the way for the elaboration of a comprehensive European strategy on the prevention of organised crime by giving some indications of the necessary activities that could be dealt with at national and European level. Its purpose is to promote a general preventive approach and enhance a preventive culture, but it should also have an impact on thematic areas such as trafficking in human beings, money laundering or other thematic priorities.

\textsuperscript{33} See the Communication of the Commission of 29.11.2000
The discussion of the Report’s content should now take place at European level in the competent working bodies and at national level within competent authorities. Different partner groups may be required to discuss best approaches, depending on the themes addressed.

The effective implementation of many of the Report’s recommendations, including the establishing of new working structures, shall to a large extent depend on the impetus given by the Member States and the Council, and on the decisions taken to follow-up. As far as Europol is concerned, organisational and financial consequences of this report will be discussed and decided within its Management Board.

In addition, considering its scope and its partnership approach, the report should also be discussed with those partners concerned by crime prevention efforts.

The Commission’s services and Europol recommend therefore that partners now link together to examine those recommendations and determine the priorities which can, by the end of 2002, contribute directly to the development of the strategy and its implementation.
Summary

The cornerstones of an integrated strategy to prevent organised crime

1. Knowledge based

- Further study of a knowledge framework for the prevention of organised crime, including a data collection plan, data process scheme and prioritisation mechanism within a “Knowledge-management” working group;
- Studying data protection and data security concerns in the context of non personal data sharing between “strategic” partners;
- Study of a standard EU analysis methodology for organised crime;
- Development of organised crime indicators, characteristics and risk profiles and establishment of a Directory at EU level;
- Further studies to improve availability and comparability of statistics at EU level (including victimisation polls), and on “criminologistics”;

2. Oriented towards prioritisation of action

- Study and research on a normative approach of setting priorities for the prevention of organised crime at national and European level;
- Development of future oriented risk assessments at European and national level;

3. Committing all segments of society

- Establishment of the European Forum for the Prevention of Organised Crime;

4. Process oriented

- Study the applicability of the Action Research Methodology in order to facilitate the detection of crime opportunities, the evaluation of preventive measures and the reproduction of good practices;
- Study the applicability of an “Organised Crime Monitor” methodology in the Member States, with a view to contribute to the EU Organised Crime Situation Report;
- Study the feasibility of a “Twin-Track” methodology in the operational processes of law enforcement and criminal justice;
- Development of “crime-proofing” techniques at national and European level;

5. Supported by the sharing of expertise, good practices, and by enhanced research

- Establishment of a Directory of Expertise;
- Establishment of a Database on Good Practice;
- Development of a Directory of Organised Crime Indicators;
- Establishing at EU level a Research Advisory Group, for the development of a “Research Framework”;

Establishing a Research Front-Office at Europol, interacting with other bodies, such as Member States’ Research Institutes and other European and international bodies;

Development of future oriented risk assessments at European and national level;

6. The importance of transparency in prevention policies

- Promoting the development of a preventive culture in society
- Study on the role of private and corporate security in the prevention of crime, their relation with public authorities;
- Further working on transparency in company law and in financial entities such as trusts and foundations;
- Further study the feasibility of establishment of national registration of Legal Persons and their (disqualified) Directors and of a European index;
- Study of disqualification of Directors of Legal Persons in national legal systems, based upon Court decisions;
- Further study possible measures to increase the integrity and improving the screening capacities for preventive purpose of public administration at national and European level;

7. The funding of crime prevention activities at European level

- Ensure complementarity and coordination of the existing first and third pillar programmes;
- Establishment of a new multi-disciplinary funding program for the prevention of crime (Hippocrates);
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Annex

Definition of organised crime used in the context of the Annual European Union Organised Crime Situation Report (6204/1/97 (ENFOPOL 35 REV 2) DG H II): In order to speak about organised crime at least six of the following characteristics need to be present, four of which must be those numbered 1, 3, 5 and 11:

1. **Collaboration of more than 2 people**;
2. Each with own appointed tasks;
3. **For a prolonged or indefinite period of time** (refers to the stability and (potential) durability);
4. Using some form of discipline and control;
5. **Suspected of the commission of serious criminal offences**;
6. Operating at an international level;
7. Using violence or other means suitable for intimidation;
8. Using commercial or businesslike structures;
9. Engaged in money laundering;
10. Exerting influence on politics, the media, public administration, judicial authorities or the economy;
11. **Determined by the pursuit of profit and/or power**.

The Joint Action of 21.12.1998 in relation to the penalization of participation in a criminal organisation in the Member States of the European Union defines criminal organisation:
- a criminal organisation shall mean a structured association, established over a period of time, of more than two persons, acting in concert with a view to committing offences which are punishable by deprivation of liberty of a maximum of at least four years or a more serious penalty;
- whether such offences are an end in themselves or a means of obtaining material benefits and, where appropriate, of improperly influencing the operation of public authorities;
- the offences referred to in the first subparagraph include those mentioned in Article 2 of the Europol Convention and in the Annex thereto and carrying a sentence at least equivalent to that provided for in the first subparagraph.

An indication of organised crime areas is also given in Article 2 (2) and the Annex to the Europol Convention in which serious forms of international crime are listed, in addition to those already mentioned in article 2 (2) of the same Convention:

<table>
<thead>
<tr>
<th>Illegal immigrant smuggling</th>
<th>Motor vehicle crime</th>
<th>Trafficking in nuclear and radioactive substances</th>
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<tr>
<td>Trade in human beings</td>
<td>Illegal money laundering</td>
<td>Unlawful drug trafficking</td>
</tr>
<tr>
<td>Murder, grievous bodily injury</td>
<td>Organised robbery</td>
<td>Illicit trafficking in arms, ammunition and explosives</td>
</tr>
<tr>
<td>Illicit trade in human organs and tissue</td>
<td>Illicit trafficking in cultural goods, including antiques and works of art</td>
<td>Illicit trafficking in endangered plant species and varieties</td>
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<tr>
<td>Kidnapping, illegal restraint and hostage-taking</td>
<td>Swindling and fraud</td>
<td>Environmental crime</td>
</tr>
<tr>
<td>Racism and xenophobia</td>
<td>Racketeering and extortion</td>
<td>Illicit trafficking in hormonal substances and other growth promoters</td>
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<tr>
<td></td>
<td>Counterfeiting and product piracy</td>
<td>And related crimes.</td>
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