

Understanding the EU response to organised crime

SUMMARY

The EU has made substantial progress in terms of protecting its citizens since the early 1990s, often in response to dramatic incidents, such as mafia or other organised crime group murders, big money-laundering scandals, a steep increase in migrant smuggling and trafficking in human beings following the 2015 migration crisis, or – more recently – a sharp rise in cybercrime, fraud and counterfeiting during the coronavirus pandemic.

Criminal organisations continue to pose big risks to the internal security of the EU. A rising number of organised crime groups are active in its territory, often with cross-border reach. Organised crime is furthermore an increasingly dynamic and complex phenomenon, with new criminal markets and *modi operandi* emerging under the influence of globalisation and – in particular – new technologies.

While the impact of serious and organised crime on the EU economy is considerable, there are also significant political and social costs, as well as negative effects on the wellbeing of EU citizens.

As organised crime has become more interconnected, international and digital, Member States – which remain responsible for operational activities in the area of police and judicial cooperation – increasingly rely on cross-border and EU-level cooperation to support their law enforcement authorities on the ground.

Recognising the severity of the problem and the need for coordinated action, the EU has initiated several measures to encourage closer cooperation between Member States and adopted common legal, judicial and investigative frameworks to address organised crime. Parliament has made fighting organised crime a political priority and has helped shape the relevant EU legislation. Future EU action will focus on implementing existing rules, improving operational cooperation – even beyond the EU's boundaries – and information-sharing, as well as addressing some of the main criminal activities of organised crime groups. Furthermore, the EU aims to make sure that crime does not pay.



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Introduction

Security is a growing concern for [EU citizens](#), who see organised crime as one of the main threats to the EU, and rightly so: not only does organised crime have deleterious effects on people's well-being, it also inflicts significant political and social, and huge economic losses.

The impact of organised crime on the EU economy in terms of gross domestic product (GDP) is estimated at between [€218 billion and €282 billion](#) annually. Furthermore, the proceeds of organised crime within the EU are currently estimated at around [€110 billion](#) a year and only 1 % is confiscated. Furthermore, between [0.7 % and 1.28 %](#) of the EU's annual GDP is implicated in suspicious financial activities. With the development of new technologies, organised crime groups (OCGs) have expanded their activities to cybercrime, which is also estimated to cost [billions of euros](#) a year to EU economies.

According to the European Law Enforcement Agency, [Europol](#), document fraud, money laundering and online trade in illicit goods and services are the 'engines' of organised crime in the EU. Criminals go to great lengths to keep up appearances of legality, which hints at the scale of money laundering aimed at concealing the origin of the proceeds of crime, given that a staggering [98.9 %](#) of estimated criminal proceeds is not confiscated and remains at the disposal of criminals.

OCGs exploit gaps in enforcement and thrive on globalisation, making full use of open borders and free trade. Organised crime syndicates and networks respond to the laws of supply and demand. They are very flexible and quick to adapt their working methods to changing circumstances and situations, as witnessed most recently in the context of the coronavirus pandemic. Shortly after the crisis erupted, [Europol](#) observed a rise in coronavirus-related criminality, especially in the form of cybercrime, fraud and counterfeiting. According to [research](#) by the EU Agency for Law Enforcement Training (CEPOL), coronavirus-related crime activities have been on the rise in all areas of social life, while activities requiring travel, transport and physical contact have declined.

As a consequence of the coronavirus crisis, Europol expects in the medium term a rise in the number of cases involving [economic and financial crime](#), such as money laundering; an increased use of shell companies and companies based in off-shore jurisdictions; and a potential new wave of irregular migration due to the impact on economies in the developing world. In the longer term, Europol expects criminals to keep adapting, taking advantage of and exploiting opportunities that emerge as a consequence of the economic recession, so as to secure themselves maximum gains. This may [lead](#) to an increase in corruption and money laundering, and to the resurgence of mafia-type organised crime groups in regions with weak governance and economic hardship.

Organised crime in the EU

An evolving landscape

In its latest Serious and Organised Crime Threat Assessment ([SOCTA 2017](#)) – which is an in-depth analysis of the present and future threats based on data gathered by Member States' law enforcement authorities or sourced from its own databases – Europol reported the presence of approximately 5 000 organised crime groups operating internationally in the EU, up from 3 600 in 2013. According to the agency, this increase is not only a reflection of a broadened intelligence picture but also 'an indication of shifts in criminal markets and the emergence of smaller groups and individual criminal entrepreneurs in specific criminal activities, especially those taking place online'.

Although hierarchically structured OCGs continue to dominate traditional crime markets, Europol confirms that 30-40 % of the OCGs operating internationally have loose network structures and around 20 % of these exist only for a short period of time (short-term ventures). An emerging phenomenon is that of individual criminal entrepreneurs offering Crime-as-a-Service (CaaS). They either work independently or are hired by loose networks and collaborate ad hoc. CaaS providers

are mainly involved in cyber-related criminal activities, such as online trade in illicit goods and services, which do not depend on traditional OCG structures.

[Investigations](#) into organised crime also indicate that corruption is on the rise. Almost all significant cases of serious and organised crime involve corruption, from low-level bribery to high-level political corruption. Organised crime and corruption are in 'a mutually reinforcing relationship', as an [EPRS study](#) puts it. Corruption is associated with more unequal societies, higher levels of organised crime, weaker rule of law, reduced voter turnout in national parliamentary elections, and lower trust in EU institutions.

The threat emanating from links between serious and organised crime on the one hand, and terrorism on the other, is not a new phenomenon. That said, Europol considers the involvement in terrorist activities of suspects having an extensive criminal background and access to the resources and tools of organised crime networks to be 'particularly threatening'. This situation is further aggravated by the fast pace of radicalisation and subjects' willingness to quickly engage in terrorist attacks once their radicalisation has started.

Modi operandi

OCGs have only one goal in mind: making profits. In order to achieve this objective, they adjust their *modi operandi* very quickly and try to expand their [control over the legal economy](#) and political life, or even take over governance tasks in regions and communities. Europol qualifies those OCGs that are able to invest their profits in the legitimate economy as well as in their own criminal enterprises as 'the most threatening', simply because they can ensure 'business continuity' and a further expansion of their criminal activity.

Document fraud, money laundering and online trade in illicit goods enable and facilitate virtually all types of serious and organised crime.

Money laundering allows OCGs to introduce the proceeds of crime into the legitimate economy. The array of techniques used by criminals to infiltrate the legal economy ranges from setting up shell companies and complex international schemes involving a series of bank transfers, to new payment methods such as cryptocurrencies and anonymous payment methods. Money laundering is also a lucrative business on its own, with some OCGs offering it as a stand-alone service to other groups, in exchange for a commission.

Almost all illicit goods and services are now bought and sold via online platforms, both on the regular web and on the DarkNet. Data are also traded as a commodity. The online trade in goods and services is furthermore estimated to increasingly disrupt established criminal markets and their traditional distribution models over the next few years.

The use of [fraudulent documents](#) has also increased significantly. Each such document can be used repeatedly to facilitate different criminal activities and therefore represents a considerable obstacle in the fight against serious and organised crime. As with illicit goods and services, fraudulent documents are also increasingly traded online.

The impact of technology

Advancements in technology are a key enabler for change in the serious and organised crime landscape. Their impact goes beyond the internet and covers areas such as drone technology, automated logistics and printing technologies.

Although the more traditional criminal markets – drug trafficking, trafficking in human beings and migrant smuggling – continue to generate the biggest profits for OCGs, cyber-dependent criminal activities are expected to generate more profits and grow in scale in the future.

At the same time, technology (for instance, advanced digital forensics, predictive policing software and drones) is a significant aid to law enforcement authorities in their fight against serious and organised crime.

Main criminal activities

More than one third of the organised crime syndicates are active in drug production, trafficking or distribution, according to Europol's 2017 SOCTA. Other key criminal activities include cybercrime, organised property crime, migrant smuggling, trafficking in human beings and excise fraud.

Nearly half of the OCGs – in particular those involved in the trafficking of illicit goods – are involved in more than one criminal activity in order to mitigate risks, reduce operational costs and increase profit margins. They are very flexible and can shift easily from one activity to another, depending on the situation. In many cases, OCGs operate on an on-demand basis and only become active once new profit opportunities arise.

Drug trafficking

[Drug trafficking](#), along with trafficking in human beings, has long been and will most likely remain the domain of OCGs. According to the 2017 SOCTA, 75 % of the OCGs involved in the trafficking of one drug also distribute and traffic other types of drugs, whereas 65 % are simultaneously involved in other criminal activities such as the trade in counterfeit goods, trafficking in human beings and migrant smuggling. Drugs are also used as a means of payment among OCGs. According to the European Centre for Drugs and Drug Addiction (EMCDDA) [European Drug Report 2019](#), over 1 million seizures of illicit drugs are reported annually in Europe (EU-28, Turkey and Norway). Among the findings in the report are that cannabis and cocaine remain the most commonly used illicit drugs in the EU, and that Europe's role in new synthetic drugs is growing. New technologies allow OCGs to maximise their production output, and online marketplaces on the DarkNet are key to advertising and selling drugs. Crises do not disrupt the drugs market; nor has the [coronavirus crisis](#) hindered OCGs from producing and trafficking drugs. On the contrary, they have remained active and resilient, and 'have adapted their transportation models, trafficking routes and concealment methods' accordingly. According to [CEPOL](#), there has been a rise in the use of the internet and social networks for the purchase and distribution of drugs and for drug-related crimes involving the DarkNet.

Trafficking in human beings

Thousands of people are trafficked in the EU every year and exploited in multiple ways or involved in other illicit activities. According to the European Commission's [second report](#) on the progress made in the fight against trafficking in human beings, dated December 2018, most of the 20 532 victims registered in 2015 and 2016 were women (68 %) and children (23 %). A majority were trafficked for sexual exploitation (56 %), followed by trafficking for labour exploitation (26 %). [Trafficking](#) – a modern form of slavery – can also take the form of exploitation for the purpose of forced criminality, such as pickpocketing, shoplifting and drug trafficking. The EU is primarily a destination region for victims from across the world, but victims are also recruited in EU countries and trafficked either internally or to other countries, inside or outside the EU. Victims are increasingly recruited online. The Commission report furthermore points out the heightened risk of trafficking in the context of migration. [CEPOL](#) expects the economic downturn resulting from the coronavirus crisis to lead to a period with rising numbers of vulnerable people. EU citizens facing financial difficulties and irregular migrants present in the EU may increasingly be targeted by traffickers.

Migrant smuggling

Whereas the victims of human trafficking are often duped or forced into entering another country, people who resort to the help of smugglers in order to enter another country usually do so voluntarily. However, according to the SOCTA, traffickers increasingly target irregular migrants and asylum-seekers in the EU for exploitation, and the [migrant smuggling](#) business is now 'a large, profitable and sophisticated criminal market, comparable to the European drug markets', generating an estimated €4.7 billion to €5.7 billion in profits in 2015 alone, at the height of Europe's migration crisis. Profits depend on the numbers of people being smuggled. Although these

numbers went down considerably in [2019](#), migrant smuggling remains a highly sustainable business with continued high levels of demand and relatively low levels of risk. Just as human traffickers do, migrant smugglers also make use of fraudulent travel and identity documents to allow entry and movement within the EU, as well as changes from an irregular to a legalised status. Migrant smugglers also rely heavily on social media and use online platforms to offer and organise their services.

Cybercrime

Citizens are increasingly [worried](#) about [cybercrime](#), as it accounts for [half of all crimes](#) in some Member States. Given how easy it is to enter into 'the business' of cybercrime, Europol expects OCGs to increasingly enhance or expand their use of cyber-tools and services. Cryptoware (ransomware using encryption) has become the leading malware in terms of threat and impact. The profits generated by ransom payments (exclusively in bitcoin) are then used for any other criminal activity. Other key cyber-dependent crimes are network attacks, payment-order fraud, payment-card fraud and online sexual exploitation, the latter being increasingly used for financial gain. The [coronavirus crisis](#) has led to an increase in the number of cyber-attacks, chats on the DarkNet and users of child sexual exploitation sites. Isolation has made people more vulnerable to internet-related crimes, such as malware, love scamming, online counterfeit sales and social media scams. According to Europol's Internet Organised Crime Threat Assessment 2019 ([IOCTA](#)), cybercrime is becoming more aggressive and confrontational. The agency warns against some OCGs fragmenting their business over a range of online monikers and marketplaces, therefore presenting further challenges for law enforcement.

Organised property crime

Organised property crimes across the EU – such as organised burglaries, thefts and robberies, as well as motor vehicle crime and the trafficking of cultural goods – are predominantly committed by mobile organised crime groups ([MOCGs](#)). These types of crime are highly visible and cause widespread feelings of insecurity among citizens. [Estimates](#) suggest one burglary is committed every 1.5 minutes in the EU, although there are big differences among Member States. According to the SOCTA, organised property crimes remain under-investigated because incidents are often classified as petty criminality without taking into account the organised crime aspect. Most goods are sold online and legal business structures are used extensively to fence stolen goods, often in the countries of origin of the MOCGs involved in organised burglaries and thefts. MOCGs also rely on social media and other online services to facilitate their criminal activity, for example, to check whether people are at home before committing a burglary. The number of [organised property crimes has declined](#) during the coronavirus crisis, with the exception of cases related to medical and protective equipment, such as theft of respiratory protective masks or disinfectants from hospitals and pharmacies.

Economic and financial crime

[Economic and financial crimes](#) affect millions of people and thousands of companies in the EU every year. These crimes are very attractive for OCGs since they generate big profits and at the same time entail low discovery and prosecution risks. They include a wide variety of criminal activities, from simple fraud to large-scale sophisticated financial schemes. They often combine licit and illicit financial transactions, which makes it hard for law enforcement to detect them. According to a recent Europol report on [enterprising criminals](#), new technologies and increased digitalisation of financial transactions pose additional challenges, such as the convergence of different types of criminal activities such as fraud, cybercrime and financial crime into one. Europol qualifies fraud, the production and distribution of counterfeit goods, as well as money laundering, as some of the most threatening forms of economic and financial crime. [Money laundering](#) is linked to nearly all criminal activities that generate profits. [CEPOL](#) notes that the collection of money destined to be laundered has become more difficult during the current crisis, and physical money mules have been hampered.

EU action in the fight against organised crime

The EU integration process has brought new challenges and opportunities for those in charge of combatting organised crime. Individual Member States are increasingly reliant on cross-border and EU-level cooperation to support their law enforcement authorities on the ground. This is especially the case for the [Schengen Member States](#), which have lifted border controls with one another.

Security union

Since 2016, many initiatives have been launched with the aim of creating [an effective and genuine security union](#). The security union builds upon the [2015-2020 European Agenda on Security](#), which, in turn, replaced policy guidelines on EU justice and home affairs, such as the [Stockholm programme](#) adopted in 2009.

The 2015-2020 European Agenda on Security focuses on the need to help Member States to develop greater mutual trust, make full use of existing information-sharing tools and encourage cross-border operational cooperation between competent authorities. It prioritises threats that require a coordinated EU response, such as terrorism, organised crime and cybercrime.

Presented by the Commission on 24 July 2020, the [2020-2025 Security union strategy](#) intends to create a multidisciplinary, coordinated and integrated approach to security. Key priorities remain the fight against organised crime, terrorism and radicalisation, as well as 'crimes in a digital age'. The strategy focuses on strengthening and better implementing existing legal, practical and support tools. It recognises that security has implications for all parts of society and all public policies, and that work must also go beyond the EU's boundaries.

The problem of organised crime has been dealt with through common instruments in a series of initiatives since the early 1990s. What facilitated action at EU level was the consensus among Member States on the need for common efforts in this domain.

EU action extends from crime prevention to law enforcement and is based on various tools, such as legislative measures, harmonised rules, crime statistics and EU-funded projects or specialist networks. Action plans and strategies have been elaborated to either target organised crime in general¹ or to deal with its particular forms. In recent years, the EU has, for example, stepped up information exchange by modernising EU-wide law enforcement databases and making them [interoperable](#); it has furthermore adopted action plans and strategies on [drugs](#), as well as on [trafficking in firearms](#), [trafficking in human beings](#), [migrant smuggling](#) and [money laundering](#).

Moreover, the problem has been addressed within the EU's foreign policy and accession strategy, for instance, in respect of actions required of candidate countries. Most of the

relevant initiatives, however, have been taken as part of police and judicial cooperation in criminal matters.

Legal framework

Member States are bound by a number of legal anti-organised-crime instruments stemming from EU and international law, including those agreed under the auspices of different institutions such as the United Nations (UN), the Council of Europe (CoE) and the Organisation for Economic Co-Operation and Development (OECD). The EU has actively taken part in drafting these international instruments and has also drawn inspiration from them for its own laws and policies.

This international-level legal interaction may be illustrated by the 2000 United Nations Convention against Transnational Organised Crime (the [Palermo Convention](#)). While the convention drew on some essential elements of the Council of the EU's [1998 Joint Action](#) on participation in a criminal organisation (98/733/JHA), it then became the world's tool of reference in the field and as such was implemented in EU law. The EU's reliance on international standards thus also leads to EU laws and policies being aligned to a large extent with those of third countries – the EU's potential or actual partners in combating transnational crime.

Police and judicial cooperation in criminal matters

The Treaty provisions on police and judicial cooperation in criminal matters evolved from informal meetings of Member States' interior ministers and from intergovernmental relations under the Schengen Agreement. Issues pertaining to organised crime came to prominence in these fora, and various informal bodies were established.

Whereas the Treaty of Maastricht was still silent on organised crime, the Treaty of Amsterdam – which in 1997 created an area of freedom, security and justice (AFSJ) – provided for the possibility to approximate criminal legislation in this area (former Articles 29 and 31(e) of the Treaty on European Union, TEU). Furthermore, it introduced framework decisions as an instrument for aligning national laws in the AFSJ.

One year later, the abovementioned Council Joint Action 98/733/JHA was adopted and remained in force until 2008, when it was replaced by [Council Framework Decision 2008/841/JHA](#) on the fight against organised crime (FD). The FD criminalises offences linked to participation in a criminal organisation and lays down penalties for them.

Since then, the FD has been met with strong criticism, in particular with regard to its definition of organised crime. The Commission has gone as far as to issue a formal [statement](#), seconded by France and Italy, saying that the FD did not achieve its objective.

Law enforcement cooperation was meanwhile strengthened by the creation of three EU agencies: Europol in the form of the Europol Drugs Unit in 1993, Eurojust in order to improve judicial cooperation across the EU in 2008, and CEPOL for the development of law enforcement training capabilities in 2005.

After Lisbon

With the entry into force of the Lisbon Treaty in 2009, the fight against organised crime became a shared legal competence of the EU and the Member States. The EU committed to achieving 'a high level of security' ([Article 67\(3\) of the Treaty on the Functioning of the European Union, TFEU](#)) in its territory and for its citizens. This specific objective was to be achieved through a number of EU measures ranging from preventing and combatting [crime](#), to coordinating between [police](#) and [judicial authorities](#), as well as through mutual recognition in criminal matters and, if necessary, through the approximation of criminal laws, including in respect of organised crime. [Article 83\(1\) TFEU](#) provides the legal basis for establishing minimum rules for the definition of criminal offences and sanctions in the area of particularly serious crime with a cross-border dimension, including organised crime. Based on this article, several legal instruments have been adopted to approximate criminal definitions and sanctions in relation to particular forms of crime, such as [drug trafficking](#), [child sexual exploitation](#), [trafficking in human beings](#), [cybercrime](#) and [money laundering](#). [Article 83\(2\) TFEU](#) provides another possibility for the approximation of criminal laws when it is deemed necessary for the effective implementation of an EU policy in an area that has been subject to harmonisation measures. Judicial cooperation in criminal matters is regulated by [Article 82\(1\) TFEU](#), which establishes the principle of mutual recognition of judicial decisions and allows the adoption of tools for [cross-border evidence-gathering](#) and [freezing and confiscation](#) of criminal assets. The

Definition of organised crime

There is no widely accepted definition of organised crime. Council [Framework Decision 2008/841/JHA](#) on the fight against organised crime (FD) provides a definition of 'criminal organisation' similar to the [Palermo Convention](#)'s definition of the term 'organised criminal group': a structured group of two (FD) or three (convention) or more persons, existing over a period of time, acting in concert with the aim of committing crimes for financial or material benefit. The Commission, in [a 2016 report](#), concluded that the FD 'does not achieve the necessary minimum degree of approximation as regards directing or participating in a criminal organisation on the basis of a single concept of such an organisation'. A [2016 EPRS study](#) called for further approximation of the definition of organised crime, notably through a revision of the FD, which it considers to be outdated in view of the rapid pace of globalisation and digitisation as well as the strengthened EU Treaty framework.

Lisbon Treaty also allows the establishment of minimum rules with respect to criminal procedure ([Article 82\(2\) TFEU](#)), which has led to the adoption of directives in areas previously regulated by framework decisions (e.g., the 2012 Directive on the rights of [victims](#) of crime and six directives on procedural rights for [suspected and accused persons](#)).

While the European Council sets the [wider strategic framework](#) when it comes to the EU's internal security, the operational and legislative details are left to the other relevant EU institutions. Under the Lisbon Treaty, the European Parliament acquired equal [legislative powers](#) with the Council, in an area that was previously intergovernmental and where Parliament was merely consulted. Since 2009, it has played a [very active role](#) in developing the EU agenda for the fight against organised crime. It has made fighting organised crime into a political priority and has helped shape the relevant EU legislation. Several laws in the areas of [judicial cooperation in criminal matters](#) and [police cooperation](#) were adopted during the previous Parliamentary term (2014-2019). The Parliament has also actively contributed to the evaluation of EU policies: in 2012 it set up a special committee – the [CRIM committee](#) – to investigate the extent and the social and economic impact of cross-border organised crime, corruption and money laundering in the EU and the Member States, to examine the role and activities of EU home affairs agencies, as well as to analyse the implementation of existing legislation and to identify possible new legislative measures. The CRIM committee made several [recommendations](#) for improving EU action in this area, notably calling for the adoption of an EU action plan to eradicate organised crime, corruption and money laundering and to revise the FD on organised crime.

Despite Parliament having often [insisted](#) on its full integration in EU criminal policy preparation – in accordance with its enhanced role – the Council [Committee on Internal Security](#) (COSI) remains the main forum for discussion of criminal intelligence and operational law enforcement cooperation among Member States. Also at Council level, a mutual evaluation mechanism was established by [Joint Action 97/827/JHA](#), in order to share best practices and improve national standards in the implementation of cooperation instruments. Eight rounds of such 'peer evaluations', coordinated by the GENVAL Working Party, have taken place by now, most recently on [cybercrime](#) and [environmental crime](#).

Operational cooperation

Operational activities are the responsibility of the Member States, but the EU does everything that falls within its remit to assist the Member States in fighting organised crime effectively.

In 2010, the EU set up a four-year [EU policy cycle for organised and serious international crime](#) (EMPACT) to address the most important criminal threats affecting the EU. The Council defines each cycle's priorities taking into account the recommendations from Europol's SOCTA, as well as data from other agencies, such as the European Border and Coast Guard ([Frontex](#)), [Eurojust](#) and the European Monitoring Centre for Drugs and Drug Addiction ([EMCDDA](#)), from Europol partner third countries and private partners, and from open sources. The 10 priorities of the [2018-2021](#) policy cycle include disrupting the activities of organised crime groups and hampering the enablers of organised crime. Emphasis is placed on combating the smuggling of migrants and trafficking in human beings, as well as child abuse, environmental crime, cybercrime, document fraud, criminal finances and money laundering, organised (property) crime, fraud, and drugs and firearms trafficking. In [2019](#), EMPACT's combined all-EU efforts led amongst other things to 8 000 arrests, the identification of more than 1 400 victims of trafficking in human beings and child sexual abuse, the seizure of 6 000 weapons, as well as of 75 tonnes of drugs and chemicals, and the freezing and seizure of €77 million worth of criminal assets.

There has been growing involvement of specialised agencies supporting national law enforcement authorities in the fight against serious and organised crime. Several of these agencies – such as [Europol](#), [Eurojust](#), the European Border and Coast Guard ([Frontex](#)) and [eu-LISA](#) (dealing with the operational management of large-scale IT systems) – have recently had their mandates reinforced; others, such as the [European Public Prosecutor's Office](#) (EPPO), whose remit includes fighting crimes

against the EU budget,² are in the process of being set up. The justice and home affairs agencies are important operational players in the fight against organised crime.

Within this network, Europol acts as the EU criminal information exchange hub and provides operational support and expertise to Member States' criminal investigations. In the area of serious and organised crime, Europol's support for the Member States focuses on the priorities identified in the EU 2018-2021 policy cycle. To maximise its support, the agency has set up several specialised centres that deal directly or indirectly with organised crime, such as the European Cybercrime Centre ([EC3](#)), the European Serious Organised Crime Centre ([ESOCC](#)) – which incorporates the European Migrant Smuggling Centre ([EMSC](#)) – and the Intellectual Property Crime Coordinated Coalition ([IPC3](#)). Only recently – in July 2020 – the European Financial and Economic Crime Centre ([EFECC](#)) was launched to enhance the operational support provided to the EU Member States and EU bodies in the fields of financial and economic crime, and to promote the systematic use of financial investigations. Despite Europol not having autonomous investigative powers, the numerous successfully completed [operations](#) during the past 20 years, as well as the various training and capacity-building exercises are proof of the agency's positive contribution to the fight against serious crime in the EU.

When it comes to bringing serious criminals to justice, Eurojust – the European Union Agency for Criminal Justice Cooperation – assists prosecutors and other investigators from the EU Member States. In 2018, Eurojust dealt with [over 6 500 cases](#). Recently, both Eurojust and Europol have been involved in the dismantling of the [EncroChat](#) encrypted phone network, widely used by criminal networks.

Challenges and possible ways forward

In a [comprehensive assessment](#) of EU security policy published in 2017, the Commission concluded that EU intervention in this area had been relevant and appropriate, while stressing the need for proper implementation of EU norms to ensure their effectiveness. When it comes specifically to the fight against organised crime, the Commission recognised that the overall EU action in this area focused on specific types of crime, while a more horizontal, comprehensive approach to organised crime and organised crime groups would be more appropriate, given their '[poly-criminality](#)', i.e. the fact that they are involved in different criminal activities. As already mentioned before, the EU legislators have adopted several legal instruments on particular crimes since the entry into force of the Lisbon Treaty. However, the 2008 Framework Decision on Organised Crime has not been updated, despite the fact that, according to [Europol](#), its definition of organised crime groups does not adequately describe the complex and flexible nature of modern organised crime networks. Already in 2015, Europol underlined that while criminal structures operate on a truly global scale and not only across two or three jurisdictions, legislative differences between EU Member States persist.

In 2016, an [EPRS study](#) identified the main gaps and barriers hindering a more effective fight against organised crime as follows: lack of ratification, transposition, implementation and enforcement of international and EU norms, outstanding gaps in the current EU legal framework, lack of accountability with regard to policy-making, and shortcomings in operational cooperation. Furthermore, EU criminal policy preparation is still mainly in the hands of the Member States, and despite its enhanced role, Parliament has so far not had any practical and effective involvement in the development of EU criminal policy. Further [EPRS research](#) has suggested that an EU criminal policy cycle, building on the current EU policy cycle for organised crime and involving the Parliament and national parliaments more comprehensively, could result in better prioritisation and accountability. It would also be important to develop a [European law enforcement culture](#) through training and sufficient funding.

A 2020 [EPRS study](#) analysing the possible scope for action based on the current EU Treaties, looked inter alia into ways to better protect EU citizens from serious and organised crime. One possible path would be to use the provisions of [Article 85\(1\)\(a\) TFEU](#) to grant Eurojust the binding power to initiate investigations in all the [areas of its competence](#), i.e. including organised crime. In [2017](#), the Parliament advocated for Eurojust and Europol to receive 'genuine investigation and prosecution competences and capabilities, possibly by a transformation into a true European Bureau of Investigation and Counter-terrorism'. Another way to bring EU added value without creating new powers could be through increased and more effective use of existing tools, such as the [joint investigative teams](#). While organised crime groups are swift to exploit free movement within the EU, the EPRS 2020 study pointed at the practical limitations faced by cross-border police and judicial operations, due to differing national laws and technical tools. Under [Article 89 TFEU](#), several measures could be adopted to allow national criminal justice bodies and police to operate on the territory of other Member

States more efficiently. Such measures include broadening the scope of 'hot pursuit', harmonising communication and police equipment standards and improving the gathering of cross-border evidence. Moreover, [Article 87\(2\)\(c\) TFEU](#) could be used to establish common investigative techniques at EU level, as a means of strengthening police cooperation. The Parliament has previously [called](#) on the Commission to submit, by the end of 2014, a proposal for a directive on common investigative techniques to combat organised crime, based on Article 87(2)(c); however, the Commission has not followed up on these calls thus far.

Special investigative techniques

The 2015 Commission [study](#) on paving the way for future policy initiatives in the fight against organised crime looked into Member States' special investigative techniques and the barriers to their use in cross-border investigations. It focused on eight techniques commonly used in the fight against organised crime: surveillance; interception of communications; covert investigations; controlled deliveries; informants; hot pursuit of suspects; witness protection; and joint investigation teams. The study concluded that the regulation of cross-border use of investigative techniques is highly complex and approaches are not standardised. Barriers include differences in the Member States' legislation, admissibility of evidence and criminal justice processes and rules, and limited resources and training of law enforcement professionals. The study gave recommendations and suggestions to overcome these barriers, by means of training and relationship-building between law enforcement officers; adoption of common models and approaches by Member States; and ensuring that all Member States have access to the necessary technology and equipment (possibly by making EU-level funding available). Further harmonisation of legislation was also suggested, as well as a potential introduction of EU-wide instruments, such as a unified EU surveillance warrant to facilitate cross-border surveillance.

Outlook

The fight against organised crime will remain high on the EU agenda in the years to come. In her [political guidelines](#), the Commission President, Ursula von der Leyen, underlined how important it is to ensure the security of EU citizens and to 'improve cross-border cooperation to tackle gaps in the fight against serious crime and terrorism in Europe'. She also insisted on the need for better supervision and a comprehensive policy to prevent loopholes when it comes to addressing new risks of money laundering. Pointing at the ever-evolving nature of organised crime, von der Leyen gave a [mandate](#) to the Home Affairs Commissioner, Ylva Johansson, to build an effective security union and to improve cross-border cooperation and information-sharing among law enforcement authorities. During her [hearing](#) in the European Parliament, Johansson mentioned organised crime as one of her priorities and committed to ensuring effective implementation of the laws in place and closing the remaining gaps in the EU security framework.

In its [work programme](#) for 2020, the Commission announced a number of legislative and non-legislative measures that are relevant in the context of the EU response to organised crime. The [fight against](#) organised crime remains a key priority in the newly launched 2020-2025 [Security union](#)

[strategy](#). The strategy recognises the need to step up the work against organised crime, including at international level, and to apply more numerous and more varied tools to dismantle its business model. Key measures include the adoption of an agenda for tackling organised crime, including [trafficking in human beings](#), in 2021. The Commission also intends to address some of the main criminal activities conducted by OCGs. To this end, in its communication introducing the security union strategy, the Commission also presented a new [EU agenda and action plan on drugs](#), a new [EU action plan against firearms trafficking](#) and a [strategy for a more effective fight against child sexual abuse online](#). An EU action plan against migrant smuggling, focussing on combatting criminal networks, boosting cooperation and supporting the work of law enforcement bodies, will soon be put forward. No specific legal instrument dedicated to organised crime is envisaged for the time being despite recent [calls](#) for an EU-wide strategy and for the adoption of such an instrument.

Under the security union strategy, the Commission also commits to assess whether the [Environmental Crime Directive](#) is still fit for purpose, as environmental crimes, which are on the rise, generate high profits at low detection risks. The same applies to trafficking in cultural goods; to address this issue, the Commission intends to explore steps to improve the online and offline traceability of cultural goods in the internal market, and to improve cooperation with third countries on cases involving the theft of such goods.

Furthermore, focus will be put on ensuring that crime does not pay. The Commission is [exploring](#) possibilities to modernise the current EU regime on freezing and confiscation of proceeds of crime, in order to better prevent organised crime groups from infiltrating the legal economy. A new [action plan on preventing money laundering](#) presented in May 2020 envisages reinforcing the EU legal framework in this area, enhancing supervision and ensuring better coordination between financial intelligence units (FIUs), including through new legislation. In June 2020, the Council [called](#) to further improve the fight against serious and organised crime, including by facilitating financial investigations, with the help of Europol's newly launched European Financial and Economic Crime Centre.

Enhancing operational cooperation and information-sharing remains a priority as well. EU home affairs ministers have recently [agreed](#) on ways to expand police cooperation, including by developing a European police partnership and by boosting funding for specialised EU agencies (in particular Europol and Frontex), in order to allow the use of new data analysis technologies such as artificial intelligence. A legislative proposal, expected to be submitted at the end of 2020, will further strengthen [Europol's mandate](#), so as to help the agency to deal with the evolving nature of internet-enabled and financial crime, and to better cooperate with private parties and third countries. Preliminary [policy options](#) also include the possibility to strengthen Europol's capacity to request the initiation of cross-border investigations or even to allow the agency to initiate criminal investigations, therefore playing a solid role in supporting the EPPO. The setting up of the EPPO is indeed another important development to follow in the next months. Notably, it remains to be seen if its mandate (currently limited to crimes against the EU budget) will be extended to other serious crimes³, such as terrorism (as [proposed](#) by the Commission) or organised crime (as [called for](#) by the Parliament).

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ENDNOTES

- ¹ e.g. the 1997 [Action Plan to combat organized crime](#) and the [Millennium strategy](#), 2000.
- ² The legal instrument that lays the foundation for the EPPO's competence is the 2017 [PIF Directive](#) on the fight against fraud to the Union's financial interests, which harmonises the definitions, sanctions and limitation periods of criminal offences affecting the EU budget.
- ³ The Treaty on the Functioning of the European Union ([Article 86\(4\)](#)) foresees the possibility to extend the powers of the EPPO to 'serious crime having a cross-border dimension'. However, such an extension requires unanimity in the Council.

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