

## **Istvan Gyarmati**

# **SECURITY SECTOR REFORM AS A CONTRIBUTION TO CRIME PREVENTION IN SOUTH EAST EUROPE**

Being the last speaker of this seminar, which is a good news in itself, I will try to take a step back and put this in a broader perspective, because I think that the changes that are happening in the world, the radical changes in the world order make this issue of dealing with organised crime more important and at the same time so much more difficult.

All that is happening against this background is tied to September 11<sup>th</sup>, just like the emergence of the previous world order was tied to the Treaty of Westphalia which is basically a good tool to illustrate what these changes really were. Organised crime really fits into these changes unfortunately and we cannot deal with it without addressing the changes in general.

The New World Order is mainly characterised by the appearance of such non-State actors who do not look like States, don't behave like States and don't want to behave like States and therefore all the instruments at our disposal who were geared to deal with States do not work.

We had similar non-State actors before, but the non State actors before, like the Catholic Church, or lately the entities which tried to gain independence, like the Nagorno Karabakhs, the Kosovos and the Abkhazias of this world always had a desire to be seen and treated as if they were States and that is what we were basically doing which created tremendous problems at the end, but at least we had some tools to deal with them.

With new non-State actors, organised crime, terrorism, we do not have these instruments. They are against these instruments. The desire of Kosovos and Nagorno Karabakhs was to fit into the existing order of

States to be recognized as one of them. The new actors do not want to fit, they want to destroy it, and it is a tremendous difference. There is a difference between organised crime and terrorism because global terrorism wants to destroy the system as it is. Organised crime wants to destroy the system by using it to its advantage, but they are natural allies because they have very similar features and very similar objectives.

The collapse of the old world order –the Westphalian order if you wish– has lots of consequences, which I don't want to discuss here, but which we will have to face in the decades to come. Just to name a few, the collapse of the Non Proliferation regime, which we do not want to recognize, but which is a fact, the crisis in Transatlantic relations, the growing gap between public opinion and Governments all over Europe if not in all countries, but there is one more which is also maybe more important. The total crisis of international law and international institutions, because international law and institutions were invented to deal with States, we now have to deal with non State actors who don't care about legal constraints and we don't tend to remain without remedies in front of actors who love to violate legal constraints, especially when they have powers which rival those of States, and will become even more powerful by acquiring weapons of mass destruction when we talk about international terrorism.

So we have to face these new threats by non State actors and organised crime is one of them. There is I think a competition between organised crime and terrorism which I think is more dangerous but I don't think we need to decide, ultimately, they do not compete, they are basically allies who provide support for international terrorism.

Organised crime is a threat to the stability of any one State, especially to weak States. We have heard it before, and actually weak States are the targets of organised crime for very understandable reasons. It is much less dangerous for them, it is much more profitable for them, and last but not least, they have a chance to hijack the State or State institutions, which they always do more or less easily. The process of institution building, in transition States, even more in new States, in States which are not yet nation-States, where the nation-building process has not been

concluded, it is very easy for organised crime to be part of the institution-building process and become part of the institutions. And we see the results that if organised crime has penetrated or taken over the police or judiciary, intelligence or customs, it is extremely difficult to fight, because we fight the organised crime by the criminals, it is very difficult to offer cooperation with institutions, because you offer information to the targets. In most cases, if you provide information from the intelligence services to the police or the intelligence services of those countries, you know that in the next day or the next hour the information will end up in the hands of those who are the target of investigation.

It is of course a tremendous danger to democracy. It not only undermines democracy and democratic institutions, it undermines the belief of the public in democracy. It looks then like democracy equals chaos, equals crime. And therefore the nostalgia for a more stable, regulated, safe regime, even at the cost of some political concessions, can grow.

Transitional economies produce basically the labour force for organised crime. If you have tens of thousands of soldiers –trained soldiers–policemen, border guards unemployed, that of course is where organised crime can recruit everybody and everything they need. And there is no way to avoid it. In the transition, tens of thousands of policemen, soldiers and border guards *will become unemployed*.

Weak States, poor States, have serious difficulties dealing with that problem. And finally, there is the threat to the EU itself, because the more the enlargement is progressing, the more organised crime will become a part of the EU. With the first enlargement – it will already happen I can tell you unfortunately, coming from a country which will be part of the first enlargement. But the more enlargement will progress, especially if it is going fast, as we all wish, the more the Schengen regime will become irrelevant. It will be much less difficult for the criminals to commute inside Schengen and outside Schengen as State institutions which are already corrupted will then be part of it.

I think there is an absolutely new approach needed which I don't see emerging, frankly. A new approach because organised crime – especially combined with international terrorism, and sooner or later, rest assured that it will happen also in SEE – cannot be combatted with police alone. And we are of course moving against very basic principles of democracy as we knew it until now; that intelligence and army are not for internal use. But we will have to recognize and the Americans are starting to recognize and they misuse it to some extent, as will always be the case, that organised crime is not a police issue alone. Intelligence is extremely important, maybe even more important than police. Intelligence cooperation is very important. Cooperation between different agencies is very important. At some point paramilitary forces or even the military will be needed and this is extremely dangerous to democracy as we know it and to human rights as we know them. And it is very difficult to find the right balance.

We can only hope that we will be able to do it. But we can make two mistakes and *we are making two mistakes*. Human rights activists are fighting against extending the powers of intelligence services and of course State bureaucrats are fighting for extending it for different reasons and there is no real compromise between the two.

Intelligence cooperation, vertical cooperation and international cooperation will be a must. This of course challenges a lot of principles and practices we've had before; we have to give up additional parts of our sovereignty, but it is very difficult not only for political reasons; it is very difficult for newly emerged countries who have regained or gained independence ten years ago to immediately give up important parts of sovereignty. And it's the best place for nationalist forces to use against those governments.

But it is also difficult for the others, for the EU countries, the other democracies to make it a two-way street. And in most cases they keep it a one-way street; which will not work in the long run. They have good reasons to keep it a one-way street, because as I said, information flowing to the institutions of another State has a direct way to organised crime. But keeping it a one-way street will soon raise questions about

the whole process in the eyes of those who only give information and don't also receive.

It is also a threat to privacy as we knew it because if you have databases of different agencies or of different countries connected, privacy will be basically gone. It is also very difficult to fight organised crime because States do not like to admit the problem, and society even less. We saw that most societies are in a state of denial regarding concrete forms of organised crime, and this is not typical only to SEE, the new member States of the EU always take pride in the fact that they are different from the SEE; they do not have organised crime at all, and I quote you examples where organised crime has penetrated governments in those countries. Not to mention old members of the EU, where on a different scale of course you also have organised crime.

It's also difficult for those countries to detect organised crime because it is hiding in State institutions and those institutions will be the last to admit that organised crime is a problem, and they are part of the problem, not part of the solution. And as soon as State institutions are dominated by criminals, the fight against them will be difficult for very understandable reasons.

There is also a huge contradiction between the legal situation and the reality on the ground. Most of these countries are hastily introducing legislation which is in accordance or even better than the EU, but if you look at the reality on the ground, the implementation of those laws and regulations. There little has changed. There is a culture in those countries of not implementing laws, which comes from history, which comes from the Ottoman Empire, which comes from the Communist Empire where you said one thing and did another. This is not seen as something bad, this is normal, this is part of life. And in many countries, you see beautiful legislation, and terrible implementation. With all the problems mentioned before, implementation will be extremely difficult, and I think the EU is making a huge mistake by looking only at legislation and not implementation when deciding about cooperation, about enlargement and other such things.

Last but not least: corruption. Corruption is the door opener to organised crime, because once you have corrupted a politician, there is no way he or she can fight against organised crime; basically this is the way to receive political support and nobody can deny that corruption has penetrated very high in the political life of these countries. And so it is very difficult to fight.

When I don't know the answers to all my questions, I always quote Albert Einstein who said that "the right question is already 50% of the answer" so I can take pride that I gave you 50% of the answer, and the other 50% should come from the rest of the world.

But that is not enough: we should find *some* answers. And I think the only answer is finding a much more coherent, much more rigid approach of the EU not only inside, but also with regards to the countries concerned. It is in the interest of the rest of those countries. It might delay their accession to the EU by a few years, but I think it will do much more good than harm to them if it's done very coherently.

Institution-building should be the focus of cooperation. And institution-building in very strict terms; controlling if and how much these institutions are penetrated by criminals. It can be done. In most cases countries know this; intelligence services from the outside basically know that too, but out of politeness and out of misinterpretation of equality, they do not tell it, or tell it in such a way that there are no consequences.

The other side of the coin is that we shouldn't try to build many Netherlands in Bosnia and we shouldn't try to build a mini EU in SEE. These countries have a very special histories, very special cultures which are to some extent different from the rest of Europe, and this must be taken into account. I am not suggesting that low levels of salaries are a justification for corruption, but we have to understand that as long as policemen cannot live on their salary, he or she will always be more vulnerable to corruption and to supporting organised crime. And as long as politicians and ministers in these countries make 300 Euros a month, they will always be more vulnerable to corruption than those who make a little bit more. Transparency is also very important, which is not in the

traditions of these countries. I am not suggesting that increasing the salaries of policemen from 50 Euros to 500 Euros will immediately solve the problem, but this and salaries, very strong institutions, sincere cooperation from the outside, more transparency and conditionality not in terms of what we had before which are conditions which are impossible to meet and easily forgotten –this is what the EU used to do– but real conditions for help and then delivering the help once the conditions are met. I think that the combination of all this in a long term strategy is what could be very helpful to these countries and to Western Europe as well, because if we don't win the war in SEE we will lose the war at home.

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