COMMENT BY ACADEMIC ADVISORS

As in previous SOCTAs, the Academic Advisory Group are pleased to have been offered the opportunity of participating in and commenting on the SOCTA 2017. We congratulate Europol on the carefully developed methodology and analysis.

We believe that the value of our contribution lies in introducing a complementary but independent non-institutional perspective. In the following we believe that we have been able to do that, by identifying areas of concern where we feel there is need for further emphasis at both policy and operational levels.

1. The SOCTA 2017 marks a further step in the evolution of a consolidated European security strategy against serious crime and organised crime. Pursuing these phenomena requires not just an account of current situations, but a forward look at potential developments that are framed not simply in terms of law enforcement practice, but in a wider societal context. In particular, and as referred to in the commentary on the SOCTA 2013, maintaining the balance between security and freedom represents a fundamental challenge in the context of the rapidly changing social, political and criminal context. Whilst recent political events have dominated the European security landscape, it is important to also recognise the lived experience of contact with criminality by European citizens, which may be removed from the headline grabbing dramatic event. Even 'organised crime' – a highly flexible construct – is often far more mundane than the dramaturgical killings and extortion that dominate the popular imagery.

2. In our view, policy-makers and politicians need to have a much greater awareness and understanding of the changes in the nature of criminal activity, and associated political and social changes that Europeans are experiencing. The relationship between terrorism and organised criminal activity, for example, has always been apparent, but that relationship may well be shifting in dangerous ways. Analyses of these phenomena need to be brought together in clearer integrated ways, and structures developed to enable that to occur at a European level. As noted in our comments on the SOCTA 2013, policy makers need to ensure that areas of criminal activity (including terrorism) are looked at as a whole, and that analysis is not limited by artificial geographical or administrative boundaries. Responding to this is, in the first instance, not a law enforcement issue; it requires an expression of political will.

3. Our comments on the SOCTA 2013 stressed the dangers associated with globalisation, and the rapid dissemination of criminal practise through digital technologies. The SOCTA 2017 broadly justifies that concern. However, it is less clear that policy makers and law enforcement agencies have fully appreciated the significance of the adaptive criminal dynamics offered by these societal changes, and the difficulties that they pose for states individually and collectively in regulating their negative social effects.

4. More specifically, there is consistent and widespread concern across the EU institutions and Member State governments about the negative impacts that organised crime has upon the security of individual citizens, communities, businesses and Member States. Though it is clear that the forms that organised crime takes, and the threat it poses for MS, varies within and outside the EU, in a number of areas, suitable data to prepare informed estimates of cost and assessment of harm are lacking wholly, or in part, due to figures that are often produced via methodologies that render them unreliable. However, this does not mean that social harms cannot be identified, without producing imaginary numbers. For example, there are the human costs of collapsed bridges, buildings and roads due to bad construction combined with corrupt construction contracts: commonplace in developed and developing countries where mafia-style OCGs with political connections are able to monopolise large public contracts, including those from the EU. The economic and social costs of organised crime activities far exceed the illegal profits generated by them, to which we should add the social anxieties of citizens who have no one they can turn to deal with exploitation, and the destruction of entrepreneurial drive that such criminal monopoly or oligopoly creates.

5. In our view, policy-makers need to ensure that they track possible counter-productive effects of policies. The thousands of deaths of aspirant refugees and economic migrants in the Mediterranean Sea well illustrates this point – and the dilemmas faced by European policy-makers. Having pledged to protect and foster human rights, the EU and its Member States thus have the responsibility to monitor and minimise the harmful unintended consequences of their policy choices, keeping also in mind that criminalisation and prosecution are not the only or necessarily the best strategy for dealing with the harms of organised crime groups and their activities.

6. The level of organised criminal groups' flexibility depicted in the SOCTA 2017 becomes especially apparent with regard to the field of CaaS. In the light of this, and the activities of intelligent perpetrators who use the Darknet for criminal activities such as offering malware, for example, suggests that a new generation of criminals and inter-criminal relationships has emerged. Experience suggests that the individuals engaged in these activities often work together in loosely organised and de-personalised networks in which trust is more important than hierarchy and cutting people out of networks or (where counter-parties are reachable) violence is the primary means of enforcing one's objectives. This is a growing trend which, whilst not supplanting traditional hierarchically organised groups in those places where they exist, does seem to be of growing significance in some areas of criminality.

7. The SOCTA correctly refers to the lack of harmonisation of law and failures in implementing international standards as a possible obstacle to the effectiveness of criminal investigations. Law enforcement communities often do not adequately consider the contiguity between economic and organised crime. Both forms of crime are not mutually exclusive phenomena. The possibilities/advantages of cooperating with legitimate business in the prevention of organised crime are not, in our view, sufficiently considered. The application of Know Your Customer Principles should become the guiding principle beyond the area of money laundering, and we need to find ways of better protecting both individuals and businesspeople who find it difficult to translate their abstract knowledge about scams into actual behaviour. This is not a task for law enforcement alone.

8. The old categories of cybercrime, organised crime and white-collar crime – once apparently different - have come under increased questioning in recent years and will continue to do so over the lifetime of this SOCTA, as criminal actors and networks overlap and are shown to overlap. There is no evidence that there has been a diminution of 'old' organised crime activities, but the role of digital technology in enabling newer predatory frauds and extortion from a distance is now clearer, offering great challenges to the 'pursue' role of the police across borders and stimulating the need for ever-closer public-private sector collaborations to cut down the elapsed time for crime reporting and to reduce the harm from cyber-enabled frauds by lowering the number of victims they can acquire.

9. Many of the things that organised criminals do are acts that are servicing illicit demands, such as illegal drugs and tax-free alcohol and cigarettes, as well as the desire to move to EU countries. However, other acts are targeted at victims, and the demographic shifts mean that there is a significant older population with liquid or liquidatable assets who are concerned about their future prosperity and the low interest rates on savings currently available. They are prime targets for both online and offline fraudsters. The most publicised scams are online ones, but there are many people targeted via affinity groups and mailshots who may become multiple victims of a range of fraudsters, sometimes connected with each other, sometimes not. More needs to be understood about these patterns of fraud networks and offender-victim relationships, and this is an area of organised crime that merits sustained attention at an EU-level. Important as border security is, many economic crime harms require more than a concern about it, as threats can emanate from communications and trade that is both intra-EU and cross-EU border without being easily identifiable as criminal.

10. Europol and law enforcement generally have sought to develop their relationships with the private sector, appreciating that the private sector have some of the intelligence and levers for prevention that are needed for combating organised crime. There remain issues of competing interests in objectives, but we welcome the appreciation that organised crime harm reduction can be striven for in multiple ways, including the private sector but also governments and the EU as regulators, encouraging pro-social developments by using administrative as well as criminal justice measures holistically.

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