

The Janus-faces of cross-border crime in Europe



Petrus C. van Duyne
Tomáš Strémy
Jackie H. Harvey
Georgios A. Antonopoulos
Klaus von Lampe

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PETRUS C. VAN DUYNÉ
TOMÁŠ STRÉMY
JACKIE H. HARVEY
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KLAUS VON LAMPE
(EDS.)

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Tel.: +31 70 33 070 33

Fax: +31 70 33 070 30

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The Cross-Border Crime Colloquium is an annual event since 1999. It brings together experts on international organized (economic) crime to discuss the latest developments in empirical research, legislation and law enforcement, with a special geographical focus on Western, Central, and Eastern Europe. The Colloquia aim at building bridges in three respects: between Eastern and Western Europe, between scholars and practitioners, and between old and young. The Cross-Border Crime Colloquium has previously been organized in:

2016 New Castle upon Tyne, UK	2006 Tallin, Estonia
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2014 Sarajevo, Bosnia & Herzegovina	2004 Berlin, Germany
2013 Cambridge, UK	2003 Airing, Germany
2012 Manchester UK	2002 Ljubljana, Slovenia
2011 Tilburg, the Netherlands	2001 Bratislava, Slovakia
2009 Gent, Belgium	2000 Budapest, Hungary
2008 Belgrade, Serbia	1999 Prague, Czech Republic
2007 Prague, Czech Republic	

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Introduction: the multiple meaning of the Janus face in crime

Petrus C. van Duyne

The double face above the door

“Panta rhei”, all flows, was one of the statements attributed to the pre-Socratic Greek philosopher Heraclitus. It looks like a platitude but following its tracks one may be surprised of the outcomes. Not because things change as such, but the ways they take place and how temporary they prove to be. Nothing has a final destination or an end-meaning as is symbolised by an ancient myth and expressed in the double sided Janus face. Why jumping from an old Greek philosopher to a respectable Roman god, probably with some Etruscan relatives? He was the god of “the beginning and end, opening and closing”, which can be associated with the “all flows” principle of Heraclitus. With this meaning his face landed above the *ianua* or door, and by further association gave the opening month of the year his name. But why his double-faced appearance? This was the result of a punishment by the upper-god Jupiter because of Janus’ transgression of hiding a ‘refugee god’, namely Saturnus. The latter (married to his own sister) had eaten his own children to prevent being dethroned by them. This incurred the wrath of Jupiter which was extended to Janus who since then had two faces. Despite his crimes he was worshipped as an important god which of course disappeared with Christianity. However, the mysterious two-faced head did not disappear and was found in many places and newly interpreted. Dissected from its godly origin the image of two faces got the association of duplicity. The lemma of present dictionaries mention: a double dealing personality. Thus the Janus face, having a criminal origin, can also mean two stories from one source. But which one is true? Combined with ‘everything flows’ this Janus concept is a suitable metaphor for studying issues with multiple facets, uncertainty and ongoing change, such criminality.

What is the Janus face of crime? That is a too broad question to answer because the Janus head can be found above every door through which crime or criminals pass, whether coming or going. If we want to detect a double meaning we must pass the door under his austere stone face to see what is on the other side because the metaphor is not necessarily universal. The other side may be empty: for crimes such as murder, assault, rape or theft it is unlikely to find ‘another face’ of crime, though a defence attorney will always try to suggest one. With other forms of crime a ‘second face’ would not be far-fetched. For example, one has ‘crimes for profit’ on one face but without a direct victim on the other side. Or, the ‘victim face’ does not look ‘unhappy’ at all, because of provided coveted illegal goods and services. With various economic crimes ‘abstract victims’ have to be dragged to the fore: ‘the state’, the ‘public fund’ or even more abstract ‘the community’ or the ‘general morality’. This vague or abstract face of crime is juxtaposed with the common consumers who are satisfied to have been served with: illegally crossing the borders, having a cheap cigarette or a joint or any other cheap illegal product having been made expensive or scarce by the authorities now parading as the primary victims of crime. They may rather be victims of own policy as may be argued about the global anti-drug policy (Bruun *et al.*, 1975; Van Duyne and Levi, 2005; Paoli *et al.*, 2009). Some criminal ‘services’ have no ‘happy face’ at the other side of the door: they may be a prelude to personal tragedy and victimisation: *e.g.* human trafficking and sexual exploitation after the ‘smuggling service’ of a safe border crossing.

The Janus face of crime has also a temporal side: the ‘pantei rhei’ door to the future. The New Year starts with the first of Janus or January and so figuratively the ‘new year’ of crime. Is there ‘a criminal futurology’ helping us to imagine the future Janus face? Some parameters are known: for example, a greying population with less crime, more migrants (for a better life or driven from hearth and home by war, prosecution or climate change), while the market of prohibited substances may prove to be as resilient as ever (UNODC, 2016). Nevertheless, there are important uncertainties. There is the cyber dimension in the commission of property crimes, hate and sex crimes.

An uncertainty of a different order is the dual political factor in dealing with crime: the public imagery or fear of crime is an emotive face with an

enormous political potential. ‘Fear of crime’ is an uncertain, intangible reflection of the actual state of crime. With a usual ‘upwards bias’ –believing more than there is – fear of crime is like ‘soft wax’ in the hands of political manipulators for moulding a suitable political, rather populist face. To this end some concrete elements must be added. Today, in the industrialised world, it is the (Muslim) migration issue being grist to the mill of populists: kneading migration plus ‘crime in the mind’ into a fearsome face. It is a guaranteed winning ticket for which a politician does not even need real crime or migrants, as is demonstrated by the election results in the quiet orderly Slovenia, May 29 18. The state of affairs in Hungary is also a good illustration for this psychological fear-of-crime-kneading: entrenched behind its barbed wire and fences the Hungarian people display a xenophobia and a fear of a ‘Jewish conspiracy’ though with few (Muslim) strangers or sinister Jews around. The exception is the philanthropist Soros whose NGO left the country in April 2018.

Indeed, the strength of the Janus face metaphor does not consist of an unchangeable stone sculpture, but in the flexibility with which one of the sides can be shaped and kneaded.

The alien Janus face

Janus as the god of the entrance is a proper metaphor of the ‘alien’ trying to enter the European Union. However, instead of a mysterious god there is the European Commission guarding the entrance – to most citizens not a less mysterious being. Whether that is an improvement compared to a capricious ancient god remains to be seen. The EU is a rule based community of states, though in its functioning it may be as capricious as any ancient god. Also, there is not just one door: there are as many as there are member states each with its national Janus face, albeit with EU regulations at the doorposts. Behind the ‘national door’ there may be a hall with new doors leading to new uncertainties: what face is there on the other side?

Of course, a rule based EU tries to avoid the accusation of being capricious. Rules are intended to reduce uncertainty. How that is implemented is set out in the chapter on trafficking victimisation by *Gwen Herkes*. Victimisation is not only an important existential event, it is also important as

a practical yardstick to manage the inflow of migrants and thus defend the European borders and security, however, with a ‘touch of humanity’. While the maintenance of security is one of the basic tasks of the EU and national authorities, there is also the harm dimension: the harm suffered by the migrant and the harm that may be done to the interests of the EU member states. According to the author ‘harm’ is a Janus face of its own, but with lack of clarity on its back side. Which harm is recognised? That depends considerably on who is harmed and how as that determines the allocation of the important ‘*victim label*’: victims need protection. Thus ‘trafficking’ implies an axiomatic victim status with all the protection measures it entails. Herkes gives an interesting exposé of the attributes of the ‘ideal victimhood’: young, female and thus vulnerable and exploited against their will. It helps to be trafficked by ‘organised crime’ which is important for the presentation of a threat dimension. Such a dimension also fits what Bouklis (2016) describes as the “victim industry” complex. If the victim-of-trafficking situation applies, Directive 2004/81/EC obliges Member States to apply a variety of protective measures to the victim. Of course, one should not have contributed to one’s own victimisation: the crime and harm should have happened to the victim and one should not have ‘tempted fate’. Therefore economic migrants are not entitled to victim status: they may have been served willingly by human smugglers who provide a safe border crossing. However, the faces of trafficking and smuggling are blurred: smuggled persons can be victims of “ruthless criminal networks” or may land in such an exploitation situation (modern slavery) that it can be qualified as trafficking. Nevertheless, they are not the ‘ideal victims’ and the author notices that the harm that came to them easily slides into the background. The author pleads for more equality in treatment of both groups based on their own experience.

There is another side of the ideal victimhood: the criminal money making opportunities under the cover of humanitarian emergency. This has been discussed by *Giacomo Orsino* and *Anna Sergi* concerning the endless flow of migrant to Italy and from there to Northwest Europe. Because of the harrowing situation funds in the inverse direction. However, emergency funding and aid allocation are rarely connected to a transparent financial management. Moreover, when such funds managed in a loose way land in traditional mafia territories such as Calabria, one does not need to be clairvoyant to see that the ‘ndrangheta soon takes advantage of these

opportunities. As a matter of fact they are already interwoven in the corrupt local public administration. The authors speak of a “concurrent predatory governance”: the local corrupt government and the mafia both dip into the pond of emergency funds. This local corrupt involvement was predictable but the mafia went beyond these territories: also emergency hotspots in Lampedusa and Rome were affected by mafia entrepreneurs where they met a similar and opportunistic greedy attitude.

We are not short of lofty recommendations while we witness a strong political tendency not to let migrants come even within sight of the EU gate: in June 2018 a rescue ship was not allowed into the harbours of Italy and Malta, on the Balkan side Europe looks like a continental gated community. All to no avail: dreams of better life keep luring and there are persistent rumours among migrants that behind some national doors migrants’ prospects are better than behind others: Germany and England are most often mentioned. But how to get there when behind each gate there is another gate with again that ugly stone face of some god that no migrant understands. They look all grim, as they have always been to new comers. At the end of the 19th Century the protestant Americans looked suspiciously at the Catholic beer and wine drinking migrants from Italy and Poland (Krabbendam, 1995). Now the Poles and Italians look the same way at Muslim immigrants. Poland does not want to have any of them, while in Italy migrants from Africa and the Middle East simply are there: shipwrecked in front of the island of Lampedusa or Sicily. *Anna Di Ronco* and *Anita Lavorgna* describe in their chapter how they are looked upon by the local population. This is not an abstract matter, but something that is being sensed in daily life: foreign people in hangouts which may be located anywhere – in the parks, play grounds and around other public facilities, such as railway stations. Though this can cause some public nuisance, much of the doings of migrants is soon interpreted in criminal terms. For this a new term has been coined: ‘crimmigration’ referring to the associated perception of crime and migration. As from other research it appears that the media play a role creating and maintaining the association of crime and migration (Antonopoulos and Papanicolaou, 2013), the authors analysed the two local newspapers in two Italian cities for the time span between 2008 and 2017. To find out whether the way the migrant problem was presented was influenced political colour, they took a city run by a centre-left coalition, Udine, and one by a centre-right coalition, Padova.

Regarding the political colour of the two municipalities there were no distinctive differences in the mainly crimmigration-like publications of the ‘migrant problem’: centre-left or right political colour displayed the same bias towards a negative reporting. In both cities asylum seekers as often seen as fake, ‘bogus’, spreading diseases and degrading the historic city centres: ‘disorderly and criminal’. The fact that a large part of those labelled in this way has fled from civil war and oppression gets less attention. Rather, fears are sensationalised by repeating the negative narrative frame of ‘threat, ‘siege’ or social and physical disorder or ‘*degrado*’.

The chapter by *Miroslav Scheinost* on the migrant issue in the Czech Republic does not only give a short and clear account of migration in and through the country in the past decades, its findings also show that public opinion, policy makers and media display different faces to migrants and what is perceived as a ‘risk of crime’. For example, the Ukrainians and the Vietnamese form a large part of the (illegal) migrant population. The Ukrainians were recruited for seasonal work and worked under (‘quasi-serf’) conditions which together could be considered as ‘exploitative’ and therefore trafficking. The Vietnamese, instead of being victimised, are engaged in various serious crime-enterprises, organising their businesses through their ethnic networks (This is described in a later chapter). Altogether serious crimes by an ethnic organised crime groups that has a high conviction rate. Nevertheless, these crimes and the criminal ethnic groups hardly evoke the emotional reactions as is the case with the inflow of migrants from African and the Middle East countries. The latter are publicly more associated with crime: migrants (roughly from Africa or Middle East) are seen as a public security threat, among others because they allegedly contribute to the increase of crime. However, in reality the crime rate in the Czech Republic is falling, as is the case in other European countries. However, perceptions prove to be ‘facts and figures resistant’. Despite these facts populist politicians still get away with this mis-representation and succeed with their anti-migrant stand in appealing to the electorate.

The transnational face of organising crime

With the classical Janus face we think of a bearded severe head hewn in stone. Is that not dusty? What about an updated Janus face above a ‘virtual

door' that may just as well be the gateway of human traffickers for on- or offline sexual service? Why should potential participants – and among them victims – not enter or be lured by smart online advertisements on the virtual sex market? To answer this question *Parisa Diba, Georgios A. Antonopoulos* and *Georgios Papanicolaou* carried out an ethnographic research project in addition to the extensive interviewing of experts in the field. For the ethnographic investigation the authors also entered a multitude of websites – also the 'Deep Web'. It is a really pioneering work with still many questions unanswered, and at the moment yielding the Janus face, partly shrouded in mist. Yes there are indications that criminal organisers use the Internet and modern communication tools to recruit women from low income countries to the EU and the UK. Geographically widely spread advertisement campaigns, with the same spelling mistakes and same mobile numbers, raises the suspicion of a(n) organising individual(s) or a crime group. But do not jump to conclusions: there appears to be a lot of mist and the negative and positive faces are both present. The researchers describe 'red-flag' situations in which it is reasonable to suspect a plausible new online trafficking intended for the old-fashioned sex exploitation – 'offline' in the escort firm, behind the windows or on the streets. But a smart sex worker can also use the Internet and the mobile telephone as liberating facilities, keeping pimps at bay, recruiting clients online and providing a choice between an online, virtual, or offline, physical sex service (Bartlet, 2014). There is no hard evidence which mode of sex service will become dominant: the faces are changing all the time and not necessarily towards more threats.

The door with the two faces is sometimes almost a real thing rather than a metaphor. This is certainly the case where migrants move to and fro through the 'door': some smuggled, other trafficked, and some migrants operating as seemingly legal entrepreneurs, but fraudulently cutting edges to remain competitive with their local semi-legal enterprises. That is case in the highly confusing situation of the Chinese migrant workers and the Chinese garment industry in the city of Prato, Italy. In his provocative chapter on transnational crime of Chinese origin in the EU *Jurij Novak* sheds light on this criminal landscape. First the author does away with a lot of myths around Chinese Triads and Chinese migration of whatever modality. After this tidying up, the author goes into the organisation of crime in the textile and garment industry in Prato. Amidst a large Chinese

minority of 30.000 to 40.000¹, of which a substantial part remains illegal in the country, Chinese entrepreneurs have established a partly underground garment industry. With an annual estimated profit of 2 billion Euros they serve any chic Italian brand (or forge them). To keep the production costs low and the products competitive, all kinds of law breaking have been observed. By any legal qualification the labourers can be considered as exploited or in a state of modern slavery. Despite that, they have little victimisation awareness, industriously working in long shifts after which they return to their crowded dormitories. Their main concern is to transfer their savings home. Those who pull the strings lead complex production organisations as ‘bourgeois’ crime entrepreneurs, dwarfing old fashioned organised criminals. For the author these findings lead to the question: shouldn’t we investigate the more serious economic forms of organising crime? That is, not focus on the Chinese human smugglers, but the wealthy underground entrepreneur who presents the ‘decent’ entrepreneur’s face but exploits his fellow countrymen.

This is more than a pious wish, to which I would like to subscribe. Nevertheless, we should not close our eyes to the extensive manufacturing centres and trading networks supplying Europe’s craving customers with a variety of drugs. This is addressed by *Miroslav Nozina* who describes the emergence of a professional Vietnamese drug trading and industry sector after the 1990s. Due to its history in the socialist era the Vietnamese lived already in the Czech Republic since the end of the Vietnam War (1975). Most were sent by the Vietnamese government as labourers in the Soviet Bloc. Others, from South Vietnam, fled from the ‘liberation’ by the new North Vietnam authorities: many of them as the ‘boat-refugees’ heading to Australia, America and Europe. Together they form a diaspora of about three million Vietnamese.

After the dissolution of the socialist states the Vietnamese remained in countries such as Germany (East Berlin; von Lampe, 2005) and the Czech Republic (CR): so to say, they were already through the gate. In the first decade after the fall of ‘The Wall’ they kept themselves economically afloat by engaging in excise fraud, mainly concerning cigarettes. As Miroslav Nozina describes, after 2000, the Vietnamese in the CR switched to

¹ All numbers in this volume will be in normal European notation: a comma for the decimals and a full stop for the thousands.

another economic pattern: the professional and wholesale cannabis plantation and after that the industrialised production of synthetic drugs: methamphetamine. Both branches produce a volume that far exceeds the domestic consumption which implies the exportation of surplus products through the criminal Vietnamese networks to surrounding countries. Though in diaspora the Vietnamese traders maintain ties to their home country and surrounding region. Not so much because of homesickness, but also because these open doors facilitate the importation of precursors as well as the re-export of finalised products. Geography helps the continuation of cross-border business: the Vietnamese psychoactive products are of good quality and price, and Germany, Poland, Austria are good selling areas with virtual open gates behind which other Vietnamese networks can be relied upon.

There are more places where the Vietnamese are active in the underground economy: Berlin, the place to be for the illegal cigarette retail trade. The development of this remarkable market described by *Trang Ngyuen* and *Klaus von Lampe*, illustrated the two faces of a persistent open illegality open on the orderly Berlin streets with a crystallised social and commercial balance between the participants. The Vietnamese, residing as labourers in the DDR, also found themselves laid off after the fall of The Wall, and virtually took over the existing Polish illegal cigarette market in Berlin. Overcoming an initial violent phase, the market settled. The authors observe a kind of in- and outflow of vendors: older vendors moving to licit jobs to be replaced by a new Vietnamese, fleeing their country for political or economic reasons. Though breaking the law, they are supposed to heed the informal market rules: pay for your vending place and your stock of cigarettes. And do not challenge law enforcement, being understaffed and more interested in wholesale smuggling and transport than in the open street market. Breaking the law is one face, keeping it orderly another.

(Organising) crime; Janus respectable faces?

Getting over the border, or through our guarded Janus faced door with prohibited goods or human beings, whether or not intended for (s)exploitation, remains morally reprehensible. But that can also be considered as a result

of labelling of what is qualified as blameworthy. Of course, there are degrees of blameworthiness: smuggling can be a humanitarian act and safe lives; labelling abortion as evil seems at present to be a ‘prerogative’ of Catholic parties such as in Poland; and amidst the international discussion on the liberalisation of cannabis products one can find all sorts of labelling. This view may smack of a suspicious ‘moral relativism’ few dare to avow openly. Nevertheless, labelling a certain conduct as criminal is to a large degree a prerogative of the powerful: they can make exceptions to ‘crime labelling’ by excluding economic and financial misconduct or neutralising blameworthiness and focussing on lower-class criminality.

However, such dividing lines are not so easy, as *Anna Markovska*’s and *Alexey Serdyuk*’s chapter on the Ukrainian arms trade illustrates. Naturally, arms trade is never neutral: it is about violence and death as the final outcome. But the state has the monopoly of violence and thereby life and death, and as such is in this matter the ultimate labeller (Ruggiero, 1996). However, what if the state trades with the tools of death, weapons. This yields a morally awkward situation. The face of the state should radiate morality, but its commercial face turns a blind eye towards trading the tools of death as a commodity. There we are right in the middle of the international arms trade dilemma. Regarding Ukraine all ingredients for a ‘wrong’ story are present: a bitter inheritance of the Soviet Union, consisting of mal-governance; corruption and a huge stock of obsolete (nuclear) arms. Still needed are legal buyers who must have the ‘official right’ to buy arms internationally for which an end-user certificate is issued. There is no shortage of such clients, obligatorily mentioned in the end user certificate (but forged as appeared in a few deals). Or otherwise at present, on a lower official level, there are ‘patriotic battalions’ fighting in the Donbas against Russia-armed insurgents. These Battalions are partly provided with arms from the grey market or otherwise by simple theft and embezzlement. Who are the law breakers in this market? That is unambiguously determined. It depends who does the labelling: in this domain it is the elite, in the government as well as the arms industry: they have the power to label what is ‘criminal’ and must get the attention of law enforcement (Ruggiero, 2010). Thus, the elite enjoys a substantial extra income through fraud and embezzlement, virtually with impunity. After all, they have the power to determine which face of the arms trade is criminal or not. High-level arm trading will certainly not be labelled as such.

Obviously such a manipulation of labelling by the elite is not restricted to the arms industry. It is also relevant for other fields such as economic and environmental crime, grand corruption and embezzlement. Naturally, such a manipulation is only required when something has gone wrong. If the profitable law breaking has succeeded, the first concern is safeguarding the loot. That is a risk, because if the loot is not cash it must be hidden within the financial system and can potentially be connected to a (suspicious) beneficial owner. The latter has often no interest in becoming known for which he seeks the services of firms offering financial ‘secrecy products’, mostly available in traditional off-shore centres (Walter, 1989). However, as *Matjaž Jager* describes in his chapter on the Panama Papers and Paradise Leaks, this off-shore secrecy service provision is not perfectly safe. These leaks had worldwide repercussions, for the exposed persons and firms as well as the states that now has solid evidence to settle accounts with their tax dodgers. The author summarises the harm done to the public fund of almost all states: enormous tax evasion, fraud, money laundering etc. Despite the mainstream discussion on international unaccounted money flows, one may wonder whether states should be their ‘brother’s keeper’. Should a state that has no excise tax on wine lend support to a state that imposes very high taxes? Forcing ‘zero-tariff’ countries to comply when it does not even know the relevant tax measures is at odds with the sovereignty in tax matters. Its implications should at least be investigated. This also concerns the representation of the evil offshore centres, where tainted moneys are supposedly hoarded. That may be a partial myth: Van Duyne and Van Koningsveld (2017) found out that much of the hidden funds eventually ends in bank accounts of onshore countries of which the government complain about the ‘manifold harm of tax havens’. They rather look within their own (financial) gates with a big smiling Janus face.

What does the author remark about Slovenia? According to the author, Slovenia proves to be a neatly tidied-up country: after Finland the second best country in terms of the in terms of secrecy on the *Tax Justice Network Financial Secrecy Index* (2015). Furthermore it has a moderate profit tax rate (19%) and is certainly no ‘tax hell’ for which you need a ‘tax haven’ to mitigate the fiscal pain. The number of Slovenian legal and natural persons that featured in the Panama Leak and Paradise Paper is moderate: about 80 beneficial owners of offshore corporations. Naturally, this caused some indignation to which the government responded by promising action

which it fulfilled by installing a strategic working group. Nevertheless, it is also smiling with two faces. Slovenia wants join the (EU) efforts to stem the flow of hidden wealth and the use of artificial tax arrangements. However, at the same time it continues the competition in the global law tax race for which it is better not to have the reputation of a ‘tax hell’. In this regard it stands out compared to countries which while beating the drum against tax evasion and money laundering remain silent of their own states (Delaware among them) or dependencies (Channel Islands) performing many offshore functions, though without naming it as such. As a matter of fact, if the statement that the offshore financial industry is little more than a global embezzlement support scheme, few states resist the temptation to receive the fiddlers’ loot, while presenting to the global moral community their virtuous face.

Virtuous faces

Naturally, the idea of the Janus face is intriguing because it suggests something hidden, a sinister ‘true face’. But the ‘*condition humaine*’ is usually neither sinister nor intriguing; it is just banal. The other face may be expressionless, empty. Many governmental ‘gates to virtue’, morally shining at the front may have such an empty face on the inside. Or, when that is politically required, some superficial cover is put onto it.

Fighting corruption and money laundering may be good examples of virtuousness with a rear side. Actually, there is a preference to combine them: fighting corruption through fighting money laundering. This is the line of policy making and implementation by the Financial Action Task Force on money laundering (FATF). Isn’t there another face? That may depend on the breadth of the scope.

The chapter by *Petrus C. van Duyne, Jackie H. Harvey and Liliya Y. Gelemerova* broadens the scope beyond corruption to include criminal breaches of integrity. Subsequently they analysed how the (FATF) dealt with this broadened scope. After all, when there is an exchange of (monetary) favours against an illegal decision, then there are criminal proceeds to be laundered. Though that must sound like a simple truth, it took fifteen years for this to sink in. Then there was an outburst of activities in 2005 followed by a number of ‘silent’ years till 2009/10 when an intensified

awareness campaign was launched. In terms of our metaphor, the empty face of policy making was from time to time plastered over with some stern features. But how solid is this plaster?

To that end the authors analysed the FATF documents, such as: the annual reports, policy and guidance papers as well as the mutual country evaluations in two years in a sample of member states. They also made for each country a ‘reference count’ (of corruption subjects) and compared the outcomes with the Corruption Perception Index of Transparency International (TI Index) and the compliance rate for integrity relevant recommendations. However, between these diverse measurements the authors could hardly find a correlation. As they put it: “nothing correlates with anything”. This implies that all efforts of the FATF have led to nothing measurable: the plaster appears to be skin deep.

That is a serious conclusion. It implies that awareness raising by means of (overfilled) seminars and issuing guidance reports, though lofty measures, remained without any discernible effect. Parallel to this we have the MERs in which corruption is increasingly (but with many variations) mentioned as important, while one of the initial the question *how corruption damages the effectiveness of AML/CFT systems* remained unanswered because of lack of reliable data. How serious should we take the stern face of the FATF when it does not address the question about the reliability of its output?

This is not the only unanswered question which passes silently underneath the Janus face. One of these unanswered but urgent questions concerns the threat of money laundering and all that is conceptually connected to it. *Michele Riccardi* and *Riccardi Milani* discuss in their chapter the opacity of business ownership and the connected risk of money laundering. That is less straightforward as one would think. We begin by facing a conceptual tangle in which one element, the consequences of the threat, remains undetermined. This is not solved: neither by the authors, the FATF or the European Commission. Without being able to determine the consequences of a laundering threat, except in vague general terms, the whole formula ends in mist. Nevertheless, all stakeholders continue to say “it is significant” with which the shortcoming is declared solved.

The authors, working in 2015-2017 in an international consortium led by *Transcrime*, tried to solve the deficit by working with empirical data from Italy, the UK and the Netherlands. It was a heroic and pioneering

attempt processing empirical data with a transparent methodology. Naturally, such an innovative project raises a multitude of new questions, particularly about the database and the rough clustering of economic sectors, such as bars, restaurants, hotels or the entertainment and gambling industry. In countries such as the Netherlands, strictly controlled licencing revealed occasionally an inflow of unexplained investment. This happened with bars and restaurants, but these were usually small scale enterprises and the intended investment could rarely be interpreted as a manifestation of ‘organised crime’ penetration (Van Duyne and Van de Vorm, 2016). Where is the threat?

Nevertheless, the approach is worthwhile to be replicated and to be used as a sieve to select subjects for further refinement and deeper investigation. This applies particularly to the Beneficial Owner distance and the cross-border complexity of corporations. In addition, to address such questions the methodology must be more refined while existing potential refuting data should be heeded. This applies to the economic sectors as well as the actors. As a matter of fact, there may be far fewer sophisticated offshore ‘company illusionists’ than this research suggests (Van Duyne and De Zanger, 2014). For sophistication we will have look up, economically and socially, at the higher levels of economic and financial crimes and grand corruption. That encompasses ‘white collar crime’ or state crime as mentioned in the chapter of Anna Markovska and Alexey Serdyuk.

Is that a Janus face with a white collar? That looks anachronistic, but true. At the other side of Janus we enter a room of ‘mirror images’: business pretensions, deceptive constructions, and in the end one or more disappearing players in the fraud game. An example of this is provided in the chapter on VAT fraud, written by *Tomáš Strémy, Natália Hangáčová* and *Martin Kotovský*. We all know VAT fraud from our daily payments for goods and services, which we rarely notice because so much is ‘inclusive’. Of course, we notice it when the painter or handyman asks; “With or without receipt?” And we know that ‘without’ is some 20% cheaper. That is basic, but the authors go above this: they provide an elaborate description of the way VAT fraud is organised. Or is it organised crime? The authors do not engage in this sterile dispute: what they analyse is the organisation of complex scams, for which the execution always requires the full application of organised crime acts. But, in case of criminal investigation or prosecution, we do not find an ‘organised crime’ charge of participating in

a criminal organisation. It is remarkable to find a mention of organised crime in the introduction, but when it comes to the application of criminal law there are no examples: no grim Janus face in cases of VAT fraud schemes but again only a ‘white collar smile’?

That is confusing when compared with what *Anna Maria Maugeri* tell us about the way the Italian law maker and law enforcement agencies intend to address ‘polluting’ the economy by infiltration whether by the Mafia or other forms of organised crime. In addition to bringing the perpetrators to justice, the Italian legal system has a broad assortment of tools to tackle companies that are being infiltrated or are suspected of being instrumental to the Mafia or Mafia-type organisations. Companies can be confiscated, lock stock and barrel in a criminal procedure or can be handled within the framework of *civil* or *administrative* proceedings. The latter preventive measures are interesting: entrepreneurs who are too close to the Mafia or other organised criminals run the risk of losing their freedom of management because of being put under judicial surveillance. This is a two-sided sword: it hits the Mafia economically and financially, while it ‘cures’ the firm placed under judicial control. The author calls it a “therapeutic manner of management”, allowing the continuation of the firm, thus inflicting no harm to staff and third parties. Compared to the criminal law measures of confiscation and forfeiture of measurement these measures are less invasive.

Though according to this exposé the Janus face may look benign at the other side, one should consider carefully what is behind that: a lower burden of proof to assume an organised crime threat. Lowering the burden of proof is justified in view of “the need to repress illegality and the need to safeguard the ‘social value’ of the enterprise”. Is that another step in the levelling of protecting dikes against the power of the state? Do we move into the direction of proven guilty unless the accused can prove his innocence? Are the administrative law monitoring of licencing in the Netherlands or the ‘unexplained wealth’ observations and related court orders in the UK, Ireland (King, 2015) and Australia, similar steps in the direction of an “entire sanctioning system is rational and flexible”, which are euphemisms of more repression and power to the state?²

² https://rusi.org/sites/default/files/201709_rusi_unexplained_wealth_orders_keen_web.pdf

Developments in the eastern member states of the democratic European Union reminds us to be careful in balancing rule of law interests and to put a clear warning sign under this Janus face: Beware of the Power of the State.

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Europe is changing rapidly, which may also have a bearing on its criminal landscape. This does not mean that all sorts of new crime are emerging: a large part of the crimes remains profit-oriented and is committed by known modus operandi. That is the old face of crime. Amidst the traditional landscape new faces of crime can be identified. The internet is such a new face which emerges among others in the sex industry. This is as old as the human race, with all the related abuses and exploitation. But the internet gives it also a new face because of its broad reach and related opportunities, negative as well as positive. This volume provides other examples of this two-faced Janus head of crime. Old criminal trades, such as the illegal cigarette market, synthetic drugs and criminal exploitation of human labour, but also new criminal specialisations, new professional and industrial skills developed by 'old' ethnic minorities on various crime markets in central Europe. Meanwhile, the on-going illegal migrations continue to exert their influence on the perception of crime: while the actual prevalence of most types of crime decreases, fear of crime continues to increase. The flow of migrants is unrelated to this outcome but it impacts nevertheless on the perception of crime.

This volume of the 18th Cross-border Crime Colloquium, held in Bratislava in the spring of 2017, contains the peer-reviewed contributions of 22 European experts and up-and-coming researchers. Their chapters cover a broad field of crime in which the double faced Janus head can be discerned: illegal migrants, criminal markets, corruption, money laundering and organised crime, highlighting many new aspects.



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