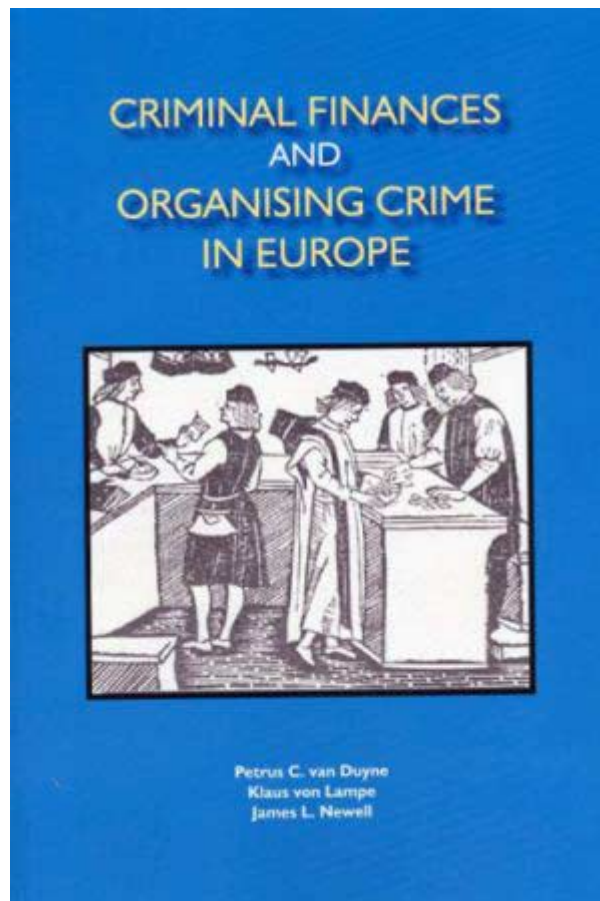


Klaus von Lampe

Organising the nicotine racket

Patterns of cooperation in the cigarette black market in Germany

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Organising the nicotine racket

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Klaus von Lampe¹

Introduction

How organised is ‘organised crime’? This question probably lies at the heart of most studies of organised crime (see Paoli, this volume). More often than not the underlying notion appears to be a dichotomy of well-discernable criminal organisations on the one hand and fragmentary structures on the other. As is the case with any social phenomenon, however, there are various shades of grey that have to be taken into account. The purpose of this chapter is to present an ongoing research project on the illegal cigarette market in Germany and to discuss its potential for a better appreciation of the variations in the patterns of criminal cooperation that characterise ‘organised crime’.

The first section attempts to explain why the market for contraband cigarettes has been chosen for a case study of organised crime. In the second section, a general classificatory scheme is proposed for analysing criminal structures, while in the third section, this classificatory scheme is applied to the illegal cigarette market.

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The illegal cigarette market and studying organised crime

Choosing the cigarette black market as an object of study

Choosing the illegal cigarette market to study organised crime is premised on two assumptions:

1. that there is –at least potentially– a general understanding of organised crime in the sense of a cumulative body of knowledge, and
2. that the illegal cigarette market can in some way or other be considered a part of or a manifestation of organised crime so that examination of such a market can contribute to this body of knowledge.

These assumptions, of course, are not unique. They arise with any study that sails under the flag of organised crime research, and have to do with the difficulties of translating ‘organised crime’ from a heterogeneous socio-cultural and political construct into a scientific concept.

So far, attempts to overcome these difficulties have been primarily aimed at finding a generally accepted definition of organised crime. Not surprisingly, these efforts have proved futile as such a definition would require a thorough understanding of the wide range of potentially relevant phenomena and the interplay between them that is currently not available. It is even questionable whether a scientific –i.e. empirical– definition is attainable at all (van Duyne et al., 2001; Von Lampe, 2001).

Where ‘organised crime’ is not just used as a non-committal label, a certain degree of reciprocity of research has only been achieved by either taking mafia imagery as a common measuring rod or by reducing the concept of organised crime to partial aspects, namely illegal markets and illegal enterprises (Smith, 1994). The enterprise model allows valuable insights, not least when –as in our case– an illegal market is chosen as the object of study. However, against the background of the public and scientific debate it means that the scope of the concept of organised crime is arbitrarily narrowed down to exclude, for example, criminal structures not directly affected by market dynamics such as criminal fraternities and deviant subcultures and groups engaged in non-market crimes like fraud (von Lampe, 1999; Paoli, 2002).

In the absence of universally accepted defining criteria, it seems that the common ground of organised crime research has to be found not in a mutual understanding of the nature of organised crime but in an agreement on how

eventually to reach such a mutual understanding. In other words, instead of engaging in circular debates over the nature of organised crime, a research program should be devised that in the end will allow one to come to such a mutual understanding or, alternatively, to a general agreement that the construct of organised crime has no counterpart in social reality and thus is obsolete as an analytical category. As I have argued elsewhere (von Lampe, 2002a), three notions should guide the study of organised crime:

1. The *field* of study should be determined by the scope of the public and scientific debate on organised crime. Organised crime as a field of research, then, contains what people so label. This would include just about any kind of cooperation for the rational commission of illegal acts, and certainly the illegal cigarette market would fall within these parameters;
2. within this broad framework there are a number of recurring issues that need to be carefully conceptualised: for example, the structural patterns of criminal cooperation and the concentration of power in criminal *milieux* and illegal markets. Instead of indulging in circular debates on how to define organised crime, more efforts should be invested in defining these middle-range concepts;
3. the aspects of the social universe that are subsumed under the umbrella concept of organised crime should not be treated as static. Whereas definitions of organised crime have a tendency frantically to focus on one specific constellation of these aspects, namely, complex criminal organisations using violence and corruption to attain control over illegal markets and legal institutions, it seems preferable to place the emphasis on the fluidity and diversity characterising collective criminal conduct.

This entails exploring, in as many social and historical settings as possible, how the phenomena in question vary in time and space and in what combinations they appear. Ideally, organised crime research would take a given geographical area as an object of study to determine what people, integrated into what structures, are involved in what types of rational illegal activities, applying what *modus operandi*, exerting what influence on legal institutions and being supported and influenced by what kind of basic conditions. Because of the broad scope of the subject, however, vast amounts of data would have to be collected and in the end, given the scattered data sources, it is most likely that still only a very fragmentary picture would emerge.

Taking a particular illegal market in a particular country such as the illegal cigarette market in Germany as the object of study is an attempt to minimise these methodological problems. It allows a close-up look at a clearly defined

detail of the overall conglomerate of people, structures and events without reducing the conceptual frame of reference.

It could be expected beforehand that in the analysis of the cigarette black market many facets of the imagery associated with the term 'organised crime' would be encountered. Moreover, choosing the illegal cigarette market in Germany appeared particularly appealing given the limited time frame of about 10 years within which it has emerged and apparently gone through several distinct phases of development. This promised to provide a good opportunity to study the dynamics to which the phenomena are subjected.

Data sources

The study of the illegal market on which this chapter is based draws on a variety of sources, including media reports, public documents, court files and interviews conducted with law enforcement officials and informants. The following discussion, which focuses on the structures within which market participants operate, reflects preliminary findings from a pilot study. This comprises the analysis of 14 cases investigated by the Berlin branch of the German customs service between 1990 and 1997.

The analysis of criminal files has obvious limitations just as does any analysis of law enforcement records due to the selectivity regarding the transgressions and the aspects thereof that come to the attention of law enforcement agencies, and the information that is eventually processed and recorded. However, there is no other source that would provide a similarly broad set of more or less standardised data on market participants, their relationships, their modus operandi and the responses from the criminal justice system. The data obtained from these case files appear to be an appropriate basis for scrutinising and supplementing official and media accounts of the cigarette black market.

The customs service is a federal agency with exclusive jurisdiction over investigations relating to offences in connection with the smuggling and distribution of untaxed cigarettes. The investigations are recorded in a central database containing information, for example, on the number of offenders and the amounts of cigarettes. The cases selected for the pilot study were taken from the ten cases for each year involving at least three offenders and the highest amounts of cigarettes. The intention behind applying these criteria was to select cases that deal with the most complex and most relevant criminal groups that have come to the attention of the customs service.

A classificatory scheme for analysing criminal structures

There are a number of deficiencies in the European and global debate on organised crime that stand in the way of a better understanding of how criminals are organised and how they are organising crime. These deficiencies include a fixation on mafia imagery, a tendency towards over-simplification, and a lack of precise terminology (van Duyne et al., 2001:50-57).

In order to rectify these problems it appears necessary to develop concepts and classifications that capture the full range of phenomena that fall under the umbrella term 'organised crime'.

With regard to the analysis of criminal structures I propose a two-dimensional classification as a starting-point. This classificatory scheme accounts, on the one hand, for the diversity of functions that criminal structures may serve, and, on the other hand, for the different degrees to which criminals may be integrated into criminal structures.

Functions

The first dimension takes into account that criminal structures typically serve one or more of the following three functions: economic, social and quasi-governmental.

- Economic structures aid criminals in achieving material gain. A cigarette smuggling ring falls into this category just as does a gang of burglars or an illegal casino.
- Criminal structures that serve social functions but no immediate economic functions, include fraternities such as the Sicilian mafia or North American Cosa Nostra (Paoli, 1998) and, to a certain degree, also deviant subcultures such as those emerging within marginalised ethnic communities (Bovenkerk, 1998). These structures support their members only indirectly in illegal economic activities, for example, by establishing contacts, promoting solidarity, creating a sense of belonging, giving status, reinforcing deviant values and providing a forum for the exchange of information. In the illegal cigarette market in Germany, certain ethnic networks may be of relevance in this regard.
- Quasi-governmental structures support illegal economic activities in a more abstract way by establishing and enforcing rules of conduct and by settling

disputes. These legislative and judicial functions are not for members only but, by definition, affect all criminal actors operating in a given territory or market. Here, too, Cosa Nostra is a good example (Anderson, 1979). As we shall see, in the context of the illegal cigarette market in Germany, Vietnamese extortion gangs who prey on Vietnamese vendors of contraband cigarettes, are the closest to structures serving quasi-governmental functions to be found. While they levy a 'street tax' on vendors, however, they do not provide any real service in return.

These three core functions are not empirically independent, i.e. a criminal group may serve, for instance, both social and economic purposes. However, given the different structural and logistical demands one is unlikely to find economic and quasi-governmental functions coinciding (Block, 1983; Skaperdas and Syropoulos, 1995).

Networks and organisations

The second dimension pertains in the first place to the distinction between networks and organisations (or groups) and secondly to different levels of organisational sophistication.

A network is a web of dyadic ties connecting two or more persons (Knoke and Kuklinski, 1982:12). Accordingly, a criminal network can be defined as a set of actors who are linked by criminally exploitable ties (von Lampe, 2001). The scope of action of each network member is determined by the quality of his or her dyadic ties and the position occupied in the overall network. A criminal network, therefore, demarcates the social space in which criminal cooperation is a viable option. The cooperation can take on various shapes and forms, from sporadic communication to continuous collaboration within organisational structures. In this sense, networks and organisations may overlap.

An organisation also consists of a combination of individuals, but in contrast to a network it is more than just the sum of its parts as it entails a certain degree of integration. An organisation takes on an existence of its own by representing a system of more or less persistent norms, expectations and procedures that permit coordinated, purposeful action (Hall, 1982:28-47).

A two-step analysis of criminal structures

The distinction between networks and organisations leads to a two-step analysis of criminal structures. First, a given set of offenders is examined for the dyadic

ties through which they are connected, distinguishing between various *forms*, and the *contents* of the ties. Relational form refers to aspects such as the intensity or strength of the link between two actors and the level of joint involvement in the same activities. Relational content refers to the substantive type of relation represented in the connections. Possible types of content include transactions, communication, sentiment, authority and social bonds, for example kinship, but mutual membership in an organisation such as Cosa Nostra would also fall into this category (see Knoke and Kuklinski, 1982: 15-16).

The analysis of dyadic ties is followed by an assessment of the extent to which these ties constitute an integral part of organisational or group structures. This is a question of whether or not actors are subordinate to a collective will, and if so, in what way and to what degree. A wide range of concepts borrowed from organisation theory and group sociology provide a basis for a concise analysis and pave the way towards overcoming empty phrases such as ‘loosely structured’ and ‘tightly organised’. The concepts to be considered include size, complexity², formalisation, centralisation, vertical integration and the means and pervasiveness of internal control (see Etzioni, 1964; Hall, 1982; Scott, 1981).

The illegal cigarette market

With the classificatory scheme providing a conceptual framework, we can now turn to the empirical data collected on various sets of offenders involved in the cigarette black market in Germany between 1990 and 1997.

Overview

The cigarette black market in Germany is part of what van Duyne (1999: 433; 1996: 356) has called the ‘price-wedge market’. It is constituted by the abuse of the cost-price changing regulatory system of taxes, excises, levies and subsidies. The commodities traded on this market, including cigarettes, are per se legal. What makes the dealing in cigarettes illegal is the circumvention of taxes and customs duties.

² Complexity is defined by horizontal differentiation, i.e. division of labour, and vertical differentiation, i.e. hierarchy, and by spatial dispersion (Hall, 1982).

As I have elaborated elsewhere in greater detail (von Lampe, 2002b), there are roughly three channels through which cigarettes are procured for illegal distribution. Domestically manufactured cigarettes destined for export may either be directly diverted to the black market or illegally re-imported by smugglers. A smaller share of contraband cigarettes comprises merchandise produced and marketed in low-tax countries.

Once untaxed cigarettes have been procured for illegal distribution they are either sold to consumers through clandestine networks or in public, by illicit street vendors. The latter are mainly of Vietnamese origin, who have established themselves in various parts of East Germany, most notably East Berlin. One remarkable feature of the open market for contraband cigarettes is the victimisation of Vietnamese peddlers by rival Vietnamese extortion gangs who in the past have waged gangland-style wars over territories.

In recent years there has been a substantial decline in the street sale of cigarettes. At the same time Germany has increasingly become a transit country for shipments of contraband cigarettes going to Great Britain, where higher taxes promise larger profits. In 2000 and 2001, half of the cigarettes seized by the German authorities were destined for the British Isles.³

The illegal cigarette market can be roughly divided into three levels: procurement from legal sources, wholesale distribution, and retail sale. Each of these levels is characterised by specific though not necessarily invariable conditions and demands on market participants.

The 14 cases included in the pilot study encompass – to varying degrees – all three market levels: six involve primarily the procurement of untaxed cigarettes, five primarily the wholesale level and three the retail sale. The amount of cigarettes handled at one time ranges from 37.000 to 11.5 million (median: 137.500). Four of the cases pertain to the early phase of the black market during 1990 and 1991, six to the time period 1992-95, which was marked by a significant expansion of the market volume, and another three to the years 1996 and 1997, when the market volume apparently declined as a result of intensified law enforcement efforts.⁴ One case, involving a group of Germans engaged in the smuggling and retail distribution of cigarettes, stretches from 1995 to 1997. Overall, the files contain information on 70 likely offenders (i.e. persons who presumably participated in the respective schemes), belonging to 18 different

³ On the European dimension of the illegal cigarette trade see Joossens (1999) and van Duyn (forthcoming).

⁴ For a more detailed account of the historical development of the cigarette black market in Germany see von Lampe (2002b).

groups or sub-networks of between two and eight known members. 14 of these collectivities were ethnically homogeneous, having exclusive Polish (n=6), Vietnamese (n=5), German (n=2) or Yugoslavian (n=1) membership.

Four case studies

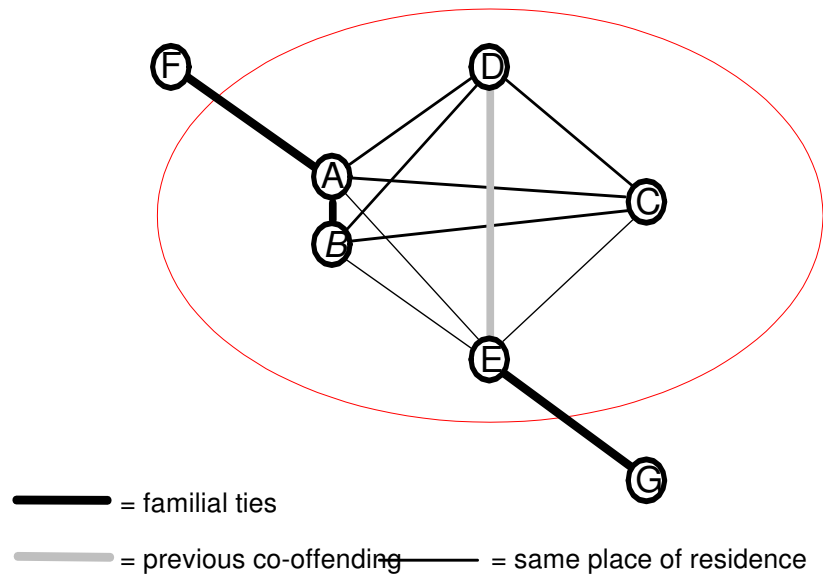
Four of the cases analysed will be presented here to illustrate some of the consistent patterns that have (or seem to have) emerged in the course of our research so far.

Case no. 1

Originally, all stages of the black market, from procurement to retail sale, lay in the hands of the same small groups or individuals operating from neighbouring Eastern countries, most notably Poland. They would purchase cigarettes, smuggle them across the border and offer them on the streets in Germany. However, retail sales were soon taken over by former Vietnamese guest workers in East Germany, who had become unemployed in the course of the industrial restructuring that began in 1990. The appearance of Vietnamese vendors led to a differentiation of market levels between Eastern European suppliers and Vietnamese retail dealers.

Figure 1

Case 1: Procurement and Whole Sale Distribution (93.000 cig.)



The first example (fig. 1) involved a group of Polish suppliers who tried to sell 93.000 cigarettes to Vietnamese customers in East Berlin in May of 1991.

The persons *A*, *B*, *C*, *D* and *E* were arrested by the police while driving two cars loaded with Marlboro and Golden American cigarettes to a Vietnamese dormitory in East Berlin. Despite contradictory statements it seems safe to assume that the cigarettes were purchased in Poland for a price of DM 15 per carton, brought across the border and transported to Berlin with the intention of selling them for a profit of about DM 2-3 per carton to unspecified Vietnamese buyers. Had it been successful, the endeavour would have produced a total profit of around DM 800 (€400).

In several respects the case is typical of the early phases of the cigarette black market, when short-term combinations of 3-5 persons formed on the basis of kinship or other social bonds supplied Vietnamese dealers in East Germany (see also Gosztonyi, 1994). In this case, all five participants, except *E*, lived in the same town close to the German border. *A* and *B* are a married couple. *C*, *D* and *E* are also married and, like *A* and *B*, they all have children. At least two of the five have a regular job, so that their involvement in the cigarette business

is aimed at supplementing legal income. The main motive for cooperation, it seems, is mutual moral support and the pooling of financial and logistical resources. The participation of *A* and *E*, for example, might in part be explained by the fact that they were able to borrow cars from *F* and *G*, respectively. It is not clear to what extent the latter two persons were aware of the purpose for which their cars were used.

Within this and similar groups neither a firm division of labour nor a hierarchy of authority is discernible, i.e. decisions were jointly made and jointly implemented. A certain degree of differentiation existed only insofar as participants with experience of previous endeavours tended to be entrusted with certain tasks such as negotiating with potential customers. In this example, this role might have been assumed by *D* and *E*, who in the previous year had already been apprehended smuggling cigarettes.

Case no. 2

The second case (tab. 2), dating back to the autumn of 1992, also refers to the supply of Vietnamese customers. In various respects, however, it becomes apparent that changes had taken place since the early phases of the black market represented by the first example. The procurement and distribution of cigarettes were no longer in the hands of the same face-to-face groups. Instead, different sets of actors with little overlap operated on the procurement and distribution levels. In addition, at least on the wholesale distribution level, horizontally and vertically differentiated structures had evolved. Finally, with the emergence of a separate wholesale distribution level, the base of operation had been partly transferred to Germany.

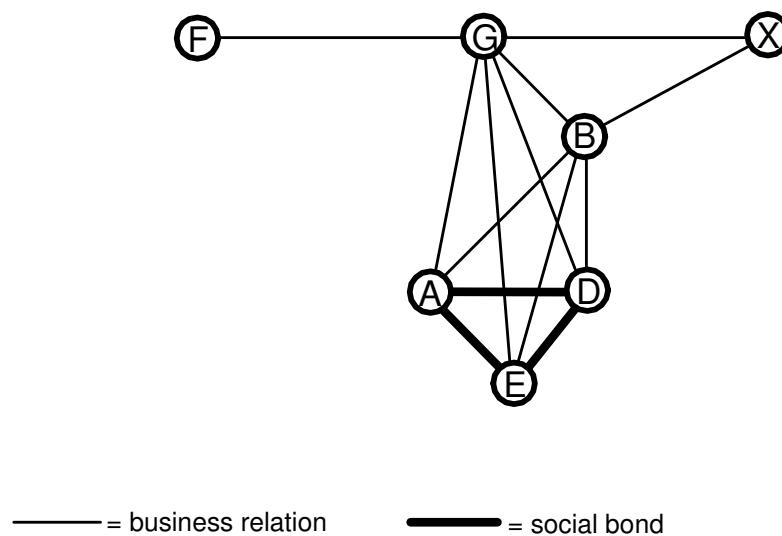
In the second example, *G*, a Pole, had been in Slovakia on assignment as a construction worker where he met three Slovaks, *A*, *D* and *E*, to whom he offered a chance to earn some money by transporting cigarettes in Germany. The three, two of them unemployed at the time, went to Berlin, first in October and then again in November of 1992, where they were put up and provided for by *G* in a summerhouse in East Berlin, which *G* had rented from the German *F*. *G* had *A*, *D* and *E* drive cars to a highway parking lot outside Berlin to meet him and to receive loads of between 160.000 and 320.000 contraband cigarettes of various brands. *A*, *D* and *E* then brought the cigarettes to the summerhouse where they re-packed and reloaded the cargo and delivered it to a Vietnamese dormitory in East Berlin with the assistance of another Slovak, *B*, who had also been recruited by *G*. *B* would go to the dormitory before each delivery, appar-

ently to make arrangements with the Vietnamese customer or customers (*X*). The task of *A*, *D* and *E* was to bring the cigarettes and pass them on to *B* standing on a dormitory balcony. While the cigarettes were transported from the parking lot to the summerhouse and on to the dormitory, *G* was not present. Only a while after a delivery was made, did he allegedly come by the dormitory to pick up the money.

In sum, we find a three level hierarchy with *G* at the top and *B* acting as some sort of foreman while *A*, *D* and *E* carried out menial tasks under the direction of *G* and *B*. *G* paid *A*, *D* and *E* DM 50 for each delivery. *B*, according to his less credible and contradictory claim, received only between DM 10 and DM 20 per delivery or per day. A horizontal differentiation manifested itself in the different ways *B* and *A*, *D* and *E*, respectively, participated in the deliveries.

Figure 2

Case 2: Whole Sale Supply (320.000 cig.) in 1992



It is not clear how durable this structure was meant to be. At least *A*, *D* and *E* seemed to have had no plans to work for *G* on a permanent basis. On the other hand the summerhouse rented by *G* had come to the attention of the customs service before as a reloading station for contraband cigarettes so that the possi-

bility cannot be ruled out that *G*, perhaps with the assistance of *B*, had run the same scheme on a long-term basis with a changing staff of helpers that he recruited for shorter periods of time.

The recruitment of helpers is a phenomenon that deserves separate attention, not only because ‘criminal workers’ are employed and paid wages somewhat similar to the way workers are in the legal economy (Ruggiero, 1996:119), but also with a view to the fact, that in several of the cases analysed there are only weak links and sometimes, such as in the case of the three Slovaks *A*, *D* and *E*, no pre-existing ties between recruiter and recruit. This is remarkable considering the widely held assumption that a certain degree of mutual trust is required to minimise the risks inherent in criminal cooperation. On the one hand there is the risk of detection and apprehension by law enforcement agencies, which increases with every additional accomplice. On the other hand, criminals are particularly vulnerable to dishonest behaviour as they cannot seek protection from the authorities and the courts (see Reuter, 1985:7).

The calculation behind such arrangements seems to be that the perceived risks of having others perform exposed tasks despite uncertainty regarding their reliability are lower than the risks the illegal entrepreneurs would expect to incur if they carried out the tasks themselves. In fact, in the case of the three Slovaks *A*, *D* and *E*, as well as in similar cases, the hired hands willingly testified after being arrested. The information they were able to supply, however, was found to be insufficient for an indictment and in some cases, including the example of *G*, even for an identification of the relevant employer. This probably has to be attributed in part to the limited resources available to the customs service for conducting more complex investigations.

Case no. 3

The third example (fig. 3) is the only one in the sample which covers the path of the cigarettes from production to the lower levels of the black market. The case involves a container load of cigarettes officially going from the English manufacturer (*Z*) to a company (*L*) in Kaliningrad, Russia, via Portugal and Germany. Apparently the initiators of the purchase had intended all along to divert the cigarettes to the black market and to use false customs stamps to fake a proper export to a non-EU country.

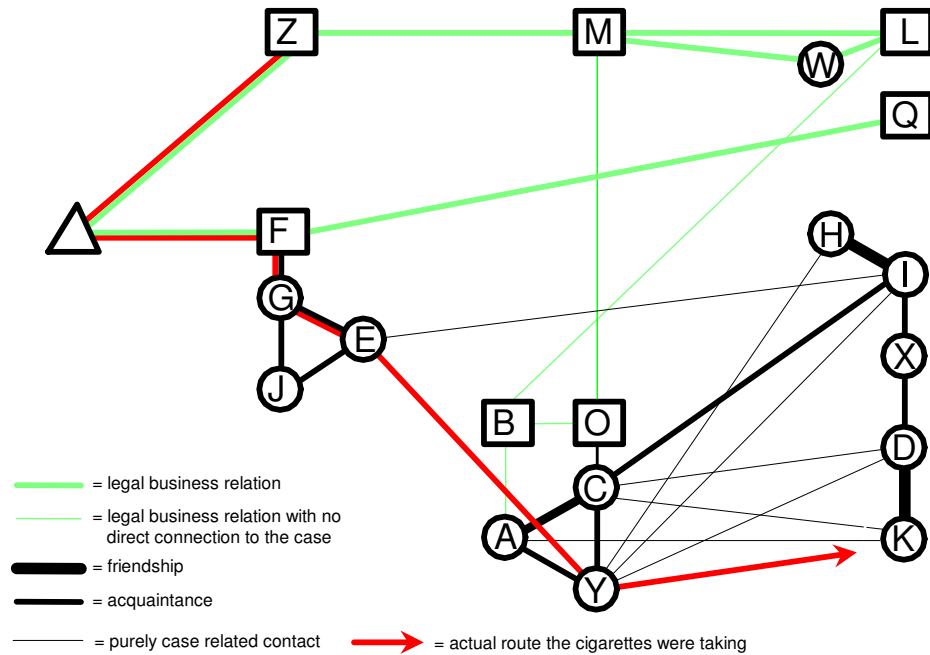
The course of events is as follows: *L* purchases from *M*, a trading company in Hamburg, Germany, a consignment of 11,5 million Golden American cigarettes for a cash price of US\$174.800 (DM 280.000). The money is delivered

to *M* by *W*, a Lithuanian, on behalf of *L*. The trading company *M* orders the cigarettes from *Z* for shipment to a bonded warehouse in Portugal where the cargo is picked up by *E*, a Polish truck driver working for the Dutch haulage company *F* of *G*. This haulage company *F* has been hired by *Q*, a company based in Riga, Latvia, in order to transport the cigarettes from Portugal to Kaliningrad across the German-Polish border, but on condition that the driver awaits further instruction once he has reached the Berlin area.

At the same time as these arrangements are made through legal business channels a group of three Poles, *A*, *C* and *Y*, living in Braunschweig, Germany, begin to look for a potential buyer for the 11.5 million cigarettes. For this purpose, *C* contacts *I* whom he has recently met. *I* lives in Szczecin, a city in Western Poland. Through another unknown Pole, *X*, he gets in touch with *D*, who also comes from Szczecin, but has obtained German citizenship and lives in Berlin. *D* has spent time in prison for involvement in trafficking in stolen motor vehicles. In prison he has befriended *K*, a Vietnamese convicted of trafficking in contraband cigarettes. *D* has financial difficulties and hopes to earn money by finding suppliers of untaxed cigarettes for *K*. *D* is unaware that his Vietnamese friend has become an informant for the customs service and has no real interest in purchasing contraband cigarettes.

Figure 3

Case 3: Sale of a Container Load of 11.5 Million Cigarettes in 1994



C and *K* enter into negotiations in the presence of *I* and *D* and come to agree that *K* will buy the 11.5 million cigarettes for a cash price of DM 713,000. This would have left the actors on the supply side with a total profit of about DM 420,000 DM (€210,000) after deducting the freight charges of about DM 13,000 that *F* and *Q* had allegedly agreed on.

When *E* in his truck approaches Berlin he is advised by *J*, another employee of *F*, that upon request of the client the cigarettes are not to be brought to Kaliningrad, but to a highway service area near Berlin. There he is met by *I* and by *H*, a friend of *I*'s who had volunteered to drive *I* from Szczecin to Berlin, allegedly without knowing the purpose of the trip. *Y* is also present, but remains in the background by giving *I* a cellular phone to receive further instructions. *E* is guided to a warehouse where *E*, *H* and *I* begin unloading the container until the customs service steps in. In the meantime *C*, *D* and *K* are in a hotel in Berlin where the money is supposed to be handed over. *C* monitors the rendezvous with *E* via cellular phone. When difficulties arise in unloading the truck because the warehouse proves to be too small for the truck, *A* appears who until

then has only communicated with *C* by phone. *A* takes over the direct negotiations with *K* before they, too, are arrested.

It remains unclear who initiated the procurement of the cigarettes through *L* and *Q* and what the relations are to the Braunschweig group of *A*, *C* and *Y* and the Dutch haulage company *F*. It is certain, however, that the shipment of the 11.5 million Golden Americans was not an isolated case.

Investigations by the customs service found *M*, the trading company based in Hamburg, to be involved in several similar shipments officially going from Portugal to Eastern Europe, including to *L* in Kaliningrad, for which the transit system procedures were not completed, i.e. the shipments were not processed for leaving the EU. In two of these cases the cigarettes were transported by *F* with *E* as the driver.

The Braunschweig group of *A*, *C* and *Y* also seems to have had prior involvement in the cigarette business. First of all, it is noteworthy that ties existed to *M* as well as to *L*. *A* is part owner of *B*, an Import/Export company based in the same building as the trading company *O*, which in turn is supposedly owned by *C*'s sister. In August 1994, one month before the attempted sale of the container load of cigarettes took place, *B* sold *L* salad oil, *B*'s major line of official business. According to customs service investigations, 'intense business contacts' exist between *M* and *O*, whereas *O* is also directly linked to the failed cigarette deal through the ownership of one of the cellular phones that *A*, *C* and *Y* have used for communication.

A strong indication of the continuous entanglement of *A*, *C* and *Y* in the illegal cigarette business are documents seized from *A*. Aside from a notebook containing the addresses of several suppliers of cigarettes to the Eastern European markets, a letter written in Polish is especially incriminating and informative. In this letter *A* is asked to let the sender know if he is ready to take a container of cigarettes on short notice. If not, the sender explains, he will come over 'to settle up'. This gives ground for speculating on the relationship between *A* and the Eastern European suppliers of cigarettes. Apparently, *A*, *C* and *Y* were not integrated into a larger, vertically integrated enterprise, but instead sold container loads of cigarettes on a case-by-case basis on commission.

The case is illustrative of a number of aspects. The most significant, however, seems to be that on the procurement level actors can operate within the framework of legal businesses. As far as criminal structures are concerned, they coincide with legal business structures or are run parallel when employees unwittingly participate in illegal activities. *J*, for example, the employee of the haulage company *F*, claimed that he was ignorant of the wider implications

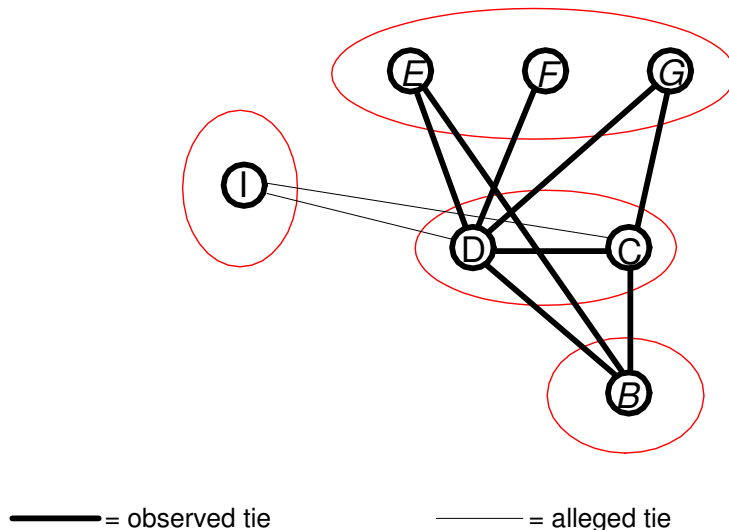
when he passed on the order to *E* not to drive the truck to Kaliningrad but to the service area near Berlin.

Case no. 4

The fourth example (fig. 4) features the sample's most complex group structure in terms of horizontal and vertical differentiation. Ironically, we find it on the most exposed market level, the street sale of contraband cigarettes.

Figure 4

Case 4: Retail Sale in 1996



The case involves Vietnamese, who were the object of a long-term surveillance operation conducted by the police at one of the busiest selling places in East Berlin in 1996. From time to time, the Vietnamese believed to be connected to the sales activities were rounded up and arrested. This resulted in the apprehension of up to 16 individuals at a time, of which at least seven can – with some certainty – be assigned to a group of offenders who collaborated on a continuous basis in a division of labour.

The group's operations comprised four different tasks. The actual selling was done by *B*, and sometimes by *D*. The cigarettes were stashed away in remote hiding places and retrieved when necessary by *D* and *C*. The cash proceeds were kept by *E*, *F* and *G*, well separate from the sales activities. Finally, *I* functioned as a lookout, apparently to warn the others of raids staged by the police or the customs service. Within the group there existed at least a two-level hierarchy of authority. The safe keepers of the money, *E*, *F* and *G*, as well as the sales person *B* and probably also *I* and other look-outs were employed on fixed salaries with regular working hours. Based on the observed money flows, *D* seems to have been the key figure in charge of the overall operation and therefore to have functioned as an employer. The nature of the relationship between *D* and *C* remains unclear.

Given the widely held notions that the complexity of criminal groups is inversely related to the risk of detection and apprehension (see Paoli, this volume), it is surprising to encounter these comparatively complex structures in connection with the street sale of contraband cigarettes, i.e. the most exposed market level. Even more astonishing is the fact that these complex structures emerged under increased law enforcement pressure.

Originally, illegal street sales were carried out by individual entrepreneurs or small groups without internal differentiation. These individuals combined to form more sophisticated structures only after violent confrontations between rival extortion gangs provoked a relentless law-enforcement campaign against the illegal cigarette business in the mid 1990s.

One explanation for the emergence of complex retail enterprises in an increasingly hostile environment is suggested by the fact that these structures are not so much designed for protection against apprehension and conviction. In this regard they may even be counterproductive. Rather, the separation of cigarettes, cash proceeds and selling activities, which is achieved by establishing specialised positions for store keeping and safekeeping, minimises the risk of seizure and forfeiture of cigarettes and especially cash proceeds. This means that the potential damage resulting from the seizure of assets is deemed more severe than the consequences to be suffered when group members are arrested for participation in the sale of contraband cigarettes. This is plausible insofar as the sanctions imposed on the street sale of cigarettes are mostly confined to fines and suspended sentences so that vendors are quickly able to return to their business after each arrest. In addition, the potentially effective instruments provided by immigration laws, namely extradition, cannot be fully brought to bear on Vietnamese vendors, because the Vietnamese government is reluctant

to readmit citizens who face extradition for involvement in the illegal cigarette business.

Links between market levels

Apart from the structure of individual enterprises a crucial aspect in the analysis of the patterns of criminal cooperation in illegal markets are the ties connecting actors on different market levels.

Generally speaking, it seems that the procurement, wholesale and retail levels of the market are connected by the same type of ties that connect participants on each level: economic ties embedded in friendship and familial ties or some lesser forms of social bond. The third example is illustrative of this point. The procurement level, represented by the companies *L*, *Q* and *M*, and the wholesale level, represented by the Braunschweig group of *A*, *C* and *Y*, were apparently connected through legal business contacts. The contact with *K*, the supposed Vietnamese customer, on the other hand, was initiated through a chain of contacts within an ethnically homogeneous social network, consisting of Poles and a German of Polish descent (*I*, *X*, *D*), and through a friendship tie between *D* and *K* that was established in prison. Within this network the participants obviously felt safe to disseminate the information that a supplier and buyer of contraband cigarettes was wanted. The case conveys the image of far reaching social networks with a rather low density that either can be activated for illegal purposes when the need arises or provide the basis for more durable patterns of cooperation. This assessment is in line with general expectations that criminal cooperation is embedded in pre-existing bonds of trust.

One constellation, however, is different and deserves particular attention: the business relations between Polish wholesale suppliers and Vietnamese dealers. Unlike the example of *D* and *K*, who established a (one sided) bond of trust in prison, the available evidence suggests that initially there were no pre-existing ties of any kind connecting both sides. In the legal economy, such business contacts across ethnic, cultural and language barriers are believed to be especially problematic and susceptible to interference (Neubauer, 1997). In the illegal economy, at least as far as the cigarette black market is concerned, the opposite may be true. It seems that Polish suppliers of contraband cigarettes have taken the risk of directly and quite arbitrarily approaching Vietnamese without prior introduction by a third party or any other preceding contact. They simply set out to solicit customers at Vietnamese dormitories. Both sides, one can surmise, were similarly confident that members of the other ethnic group

could be trusted. If this supposition is true, then a certain level of trust existed precisely because of the ethnic distinction, by allowing 'positive' stereotypes. One such stereotype, for example, is that Poles or Vietnamese can generally be expected to behave in an agreeable way, because they are known for their participation in underground business.

A similar mechanism may be in place where German customers and Vietnamese street vendors meet. But in this context, ethnic distinction could be relevant for yet another reason. Their distinct appearance makes Vietnamese vendors more easily identifiable for customers and thereby facilitates the initiation of contacts.

Network and group structures

Taken as a whole, the cigarette black market in Germany seems to be characterised by low-density networks comprising small, simply structured enterprises and individual entrepreneurs, who perform relatively simple tasks. Group structures, to the extent they become visible, in general display little vertical or horizontal differentiation. This seems to be true even where 'criminal labourers' are employed, because they tend to be hired only for one specific task or, as in the case of the Slovaks, only for a limited period of time. Therefore it is difficult really to consider them parts of durable enterprise structures. One reason for this phenomenon may be that more sophisticated structures are not required to meet the demands of the cigarette black market as there is, for example, no complex technology to be handled.

Core groups that make up criminal enterprises tend to be based on strong ties such as kinship, marriage or friendship, but employer-employee and buyer-seller relations can be found that are rooted in weak ties or even lack any basis in pre-existing contacts.

The apparent ease with which social bonds can be exploited and new contacts can be established for participants in the illegal cigarette market is not necessarily representative of all illegal markets. Whatever furthering factors are at work, one crucial aspect is probably the fact that the risks inherent in involvement in the cigarette black market are relatively low compared, for example, to the drug market. The highest sentence documented in the 14 case files analysed was 2 years and 9 months prison without parole for participation in the failed attempt to sell a container of 11,5 million cigarettes. Against many offenders no sanctions were imposed at all, for example for lack of evidence or because the authorities failed to identify and apprehend the suspects. Overall,

of 70 likely offenders appearing in the proceedings analysed, only 34 were convicted. Of these only 9 received a prison term without parole, another 13 were sentenced to prison with parole, and 12 received fines. The proceedings against the remaining suspects were suspended or ended in an acquittal or, in the case of 12 likely offenders, the files contain no information on any formal response by the criminal justice system.

Criminal fraternities and criminal subcultures

Where social networks provide a basis of trust for cooperating market participants there is no indication whatsoever that they are reinforced by membership in mafia-type criminal fraternities or secret societies.

In this context it is also interesting to note that most market participants apparently lack any involvement in other areas of crime. Criminal records are either clean or show offences such as traffic violations and violations of immigration statutes. Even *D* in the third example, who had served a prison term on charges related to trafficking in stolen motor vehicles, does not seem to be a hardened 'career criminal'. In fact, he had been a dentistry student who simply appears to have been a bit down on his luck. Thus, patterns of cooperation among participants in the cigarette black market do not tend to be embedded in criminal subcultures either.

Monopolisation

Regarding specific market levels and the cigarette black market as a whole, there is no evidence that the criminal structures that evolve around specific activities are subject to a monopolisation process. Neither do we find any indication that individuals or groups of market participants have undertaken efforts in that direction by removing competitors and blocking market access.

What can be observed though, is a concentration process on the upper levels of the illegal market due to economies of scale. Originally, the procurement of cigarettes from legal sources had been open to virtually all market participants when the primary sources of supply were legal outlets in low tax countries such as Poland. In later years, most cigarettes appear to have come from bulk purchases made directly from manufacturers and trading companies within the EU. While this is potentially the most profitable way to obtain cigarettes for the black market, it is open only to a few more or less sophisticated and well-funded entrepreneurs. In Berlin during the mid 1990s, for example, the large-

scale supply of cigarettes was supposedly confined to just three groups of offenders.⁵

Eventually, the concentration process seems to have trickled down to the level of Vietnamese wholesale traders. According to a Vietnamese informant interviewed by a TV-journalist in 1999,⁶ three groups of former street vendors had acquired the financial capacity to buy entire shipments of contraband cigarettes from Polish smugglers to pass them on to several groups of mid-level dealers, who in turn supplied the larger numbers of retail dealers. This implies that not only on the procurement level, but also on the wholesale level a limited number of actors is responsible for a relatively large share of the market supply.

There is likewise no evidence of the emergence of an illegal power structure overarching the illicit cigarette business. Such a quasi-governmental monopoly of power could be expected to evolve either in response to a demand for non-violent dispute settlement mechanisms (Reuter, 1984), or in an effort to internalise the external costs of the use of violence (Hellman, 1980; Luksetich and White, 1982). Both factors do not seem to be relevant for the illegal cigarette market.

Extortion

A different matter is the phenomenon of the systematic extortion of street vendors by Vietnamese extortion gangs. These gangs are not directly involved in the day-to-day routines of the cigarette business and appear to be purely predatory in nature (Laudan, 1999). Therefore it is difficult to classify them as performing quasi-governmental functions.

Unlike illegal markets, we do find violent competition for control over territory as a natural by-product of extortion. In the long run, it can be argued, extortion works only if the extorted is convinced that by paying one extortionist the overall risk of extortion is covered. The creation of a monopoly of violence, therefore, is a necessary condition for extortion gangs to survive (Schelling, 1971:76-77). In the case of the Vietnamese extortion gangs, however, no single gang managed to achieve supremacy and the warring factions also failed to come to a peaceful division of territories. Instead, the bloody feuds continued until they provoked a relentless concerted response by the police and the customs service. This response not only led to the dismantling of the major rival

⁵ Nie Fragen gestellt, in: *Der Spiegel* 27/1997, p. 25-26

⁶ Althammer, R., *Ein mörderisches Geschäft*, B1, 15 October 1999, 20.15-20.45 h.

extortion gangs, but also to a significant reduction in the street sale of contraband cigarettes (von Lampe, 2002b).

Interfaces between the legal and illegal spheres of society

One final comment should be made on the interfaces between legal and illegal structures. There are numerous constellations that have to be taken into account, including the corruption of public officials and the use of legitimate businesses. Analytically there are some similarities to the linkages between different market levels, as in both cases there is a great likelihood that actors with different socio-economic and cultural backgrounds meet. Nevertheless, the cleavages that have to be overcome might be greater when participants in the black market and representatives of legitimate institutions get into contact, as in the case of the procurement of untaxed cigarettes from manufacturers and trading companies. In other regions of the world, such as in North and South America, cigarette manufacturers have been found to have colluded with smugglers and black marketeers (Dantinne, 2001). A similar claim has been made by the European Commission with regard to Western Europe,⁷ while the industry insists that it is in its own best interest to cooperate fully with the authorities to curb the illegal distribution of cigarettes.⁸

The above mentioned case of the failed sale of a container load of cigarettes provides some indication that at least certain European cigarette manufacturers may have turned a blind eye to the diversion of their products to the black market.⁹ The container load in this example was officially destined for a company in Kaliningrad, but was to be delivered to a bonded warehouse in Portugal. Such a detour only made sense because the cigarettes were never meant to leave the EU. Instead, the buyer of the cigarettes intended to use forged customs stamps to fake proper export from the European Union and probably expected the Portuguese customs service to be unfamiliar with the stamps used at the German-Polish border and therefore to be unable to identify the forgery. It is hard to believe that the British manufacturer was unaware of these implications. In any case, a complete picture of the cigarette black market will not be obtained unless the contacts between black marketeers and the legal tobacco

⁷ See the complaint filed with the U.S. district court for the Eastern District of New York, dated 3 November 2000.

⁸ Ernst Brueckner, managing director of the German association of cigarette manufacturers (VdC) in an interview with the author on 14 September 2000.

⁹ See also van Duyne (1996:360).

industry are thoroughly examined, in particular, the chain of intermediaries who mask the transfer of cigarettes to the eventual smugglers.

Conclusions

The illegal cigarette market is a case in point for the diversity of criminal structures. On the one hand, it provides empirical evidence to refute popular impressions that sophisticated mafia syndicates monopolise illegal markets. Rather than continuous criminal organisations shaping their environment, the patterns of criminal cooperation that characterise the cigarette black market are apparently shaped by the basic conditions under which contraband cigarettes can be procured and distributed. On the other hand, the structural diversity of the cigarette black market is illustrative of the fact that the mere debunking of myths falls short of a complete and exhaustive analysis. Indeed, fairly little is learned about criminal structures by saying what they are not. Instead, a sufficiently differentiated set of concepts and classifications needs to be adopted to account for the various shades of grey and the dynamics of criminal cooperation. Certainly, the efforts that have been made in the last 20 years to raise the level of scholarly debate by introducing concepts from economics and organisation theory have not been in vain. They have allowed 'organised crime' to be seen more in terms of 'organising crime' (Block and Chambliss, 1981). This angle allows us to shift the focus from allegedly static criminal organisations to the constraints placed on collective criminal behaviour (Reuter, 1985; Smith, 1994; Southerland and Potter, 1993).

These concepts, however, still have to prove their value for explaining the emergence of specific structural arrangements under specific conditions. Even the small sample of only four illustrative cases that are presented in this chapter raises a number of questions that cannot readily be answered in terms of what has come to be known as 'enterprise theory'. Such questions include: why complex structures evolve under increased law enforcement pressure, as in the case of the street sale of contraband cigarettes, or how it is possible that illegal business contacts seemingly take shape out of nowhere across cultural, ethnic and language barriers. This suggests that the fragmentary set of concepts currently used in the analysis of organised crime needs to be incorporated into a more comprehensive theoretical framework, one that better accounts for the myriad of economic, social, cultural and psychological forces that appear to shape the way actors operate and cooperate under conditions of illegality.

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