The External Dimension of the EU's Fight against Organized Crime: The Search for Coherence between Rhetoric and Practice

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Abstract

Since the external dimension of the European Union's Justice and Home Affairs (JHA) began to be considered, a substantial amount of literature has been dedicated to discussing how the EU is cooperating with non-member states in order to counter problems such as terrorism, organized crime and illegal migration. According to the EU, the degree of security interconnectedness has become so relevant that threats can only be adequately controlled if there is effective concerted regional action. This reasoning has led the EU to develop a number of instruments, which have resulted in the exporting of certain elements of its JHA policies, either through negotiation or socialization. Although the literature has explored how this transfer has been applied to the field of terrorism and immigration, very little has been written on the externalisation of knowledge, practice and norms in the area of organized crime. This article proposes to bridge this gap by looking at EU practice in the development of the external dimension of organized crime policies, through the theoretical lens of the EU governance framework.

Keywords

European Union (EU) organized crime (OC) policies have been developed in the context of Justice and Home Affairs (JHA), a policy space that also encompasses asylum and immigration policies, judicial cooperation in civil and criminal matters, the management of EU borders, police cooperation, and Fundamental Rights. Together, these areas form the fastest growing policy field the EU has known in recent years. This startling evolution has also been reflected in the development of an external dimension of JHA, marked by the projection of traditional internal security concerns onto the European Union's foreign affairs policies, strategies and instruments. Within the space of just a few years, this external dimension has come to promote rule of law objectives, human rights, institution building, and good governance in general, by pursuing an approach of coherence with EU internal security policies. Focusing on the fields of immigration, asylum, terrorism, and OC, this cooperation is aimed not only at EU neighbouring areas, but also at more remote strategic countries, such as China and India (Council 2006).

Rhetorically, OC occupies a key position in EU strategic documents as one of the main drivers for the need to expand the external dimension of JHA (Council 2005). Cooperation in the field of criminal matters is considered a very high priority given the degree of dangerousness attributed to OC, which is understood as posing a challenge not only to the good functioning of markets, but also to the fabric of democracy and the security of citizens (Allum and Siebert 2003). Given the perceived external origin of OC groups and activities, the EU is focusing its efforts on preventing criminals from operating across its external borders. An analysis of the EU's efforts in translating this priority into practice, however, shows us a very different reality. The external dimension of the EU's fight against OC, far from being a cohesive and strategically-led policy area, rather resembles a schizophrenic field, with a disconnection between rhetoric and practice, as well as a lack of coherence among its different constitutive sub-policies.

Although the EU's external dimension of JHA has now become quite a recurrent object of academic study, very few works have actually focused on its OC policy elements. Bearing this background in mind, this article explores how the EU is integrating OC policy initiatives into the external dimension of JHA. In order to achieve this objective, the article will, firstly, discuss how the research question can be situated and understood in the broader debate on EU governance. The second section looks at how the development of an EU organized crime threat perception was used as one of the motors for the

creation and expansion of the external dimension of JHA. It also points out, however, that this process has had serious limitations, resulting in a rhetoric-practice gap. Finally, the third part will focus on the evolution of the external dimension of OC policies specifically, and how the co-existence of different forms of governance has led to a disjointed field.

UNDERSTANDING THE EXTERNAL DIMENSION OF ORGANIZED CRIME POLICIES THROUGH THE THEORETICAL LENS OF GOVERNANCE

The issue of how the EU is integrating OC policy initiatives into the external dimension of JHA can be inscribed in a broader theoretical debate concerning EU governance. The latter theoretical framework seeks to provide insights into the institutionalisation of structures and processes of decision-making in the EU (Scharpf 2001). Although a complete literature review on EU governance is beyond the scope of this article, a brief introduction to the concept is necessary. This discussion is followed by a consideration of how the external dimension of JHA has been conceptualised in EU governance literature and how that fits with the focus of this article.

The understanding of the EU as a system of governance has become a prominent approach both in policy-making (European Commission 2001) and in academia (Lavenex et al. 2010; Hooghe and Marks 2001). Despite ongoing discussion as to the exact meaning of the concept of governance, the latter has generally been associated with 'a process and a state whereby public and private actors engage in the intentional regulation of societal relationships and conflicts' (Kohler-Koch and Rittberger 2006: 28). Such an approach emerged in opposition to the idea, typical of classical European integration theory, that society is managed through hierarchical structures, where a unified EU features as the main actor (Lavenex et al. 2010). Instead, the EU governance theoretical framework suggests that decision-making patterns in the EU are increasingly marked by non-traditional government structures, where state and non-state actors, independent of their hierarchical level, coordinate to achieve desired policy outcomes (Hooghe and Marks 2001). The rationale behind such a proposal is that the EU's decentralised institutional and power settings have led to the emergence of alternative forms of governance (Jachtenfuchs 2001). From this perspective, EU governance has two main features: 1) a reduced hierarchy and 2) the participation of both public and private actors in decision-making processes.

More recently, it has been argued that this increased prevalence of non-hierarchical modes of governance has not been fully validated by empirical data. In fact, case studies seem to indicate that the EU encompasses a mix of different co-existing forms of governance, which vary considerably according to the policy area in question (Börzel 2010). In this view, even though decision-making can be the result of a combination of different modes of governance, some of these modes may be dominant, thus creating a conditioning effect over other forms of governance that varies according to the policy context (ibid). This perspective provides us with a more complex understanding of EU governance and allows us to add three features to those mentioned in the previous paragraph: 1) forms of governance are usually mixed; 2) dominant forms of governance will limit those other forms with which they combine; 3) governance modes vary according to policy fields.

In terms of how the EU governance framework has been applied to the external dimension of JHA, theoretical approaches engaging with this area have stemmed from fields as different as European Integration Studies, Foreign Policy Studies, Legal Studies, Sociological Studies, and Critical Security Studies (Trauner and Carrapico 2012). They have all contributed to the theoretical conceptualisation of the external dimension of JHA by addressing the question of how the EU's influence is exercised beyond its borders (Wolff et al. 2010). Of the various fields, however, the most prolific literature stems from

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European Integration Studies, and from EU governance more specifically. In the context of the external dimension of JHA, EU governance has focused in general on the processes by which third countries' policies are shaped by EU norm transfers (Lavenex and Schimmelfenning 2013). Particular attention has been paid to specific geographical areas, namely the Enlargement countries during the 2004 and 2007 accession processes, followed by the EU's neighbouring states (Balzacq 2009). This theoretical approach has underlined that the EU has gradually been distancing itself from hierarchical modes of governance, defined by conditionality, and moving in the direction of socialisation approaches through transgovernmental networks of actors (Lavenex et al. 2010). It has also pointed to the importance of internal governance dynamics in shaping the development of the external dimension of JHA (ibid). Conclusions stemming from this area have underlined, however, that outcomes vary significantly according to the region and policy field under analysis (Lavenex et al. 2010).

These conclusions, however, have been reached on the basis of a limited number of JHA policy fields. Despite often mentioning the threat of OC as a key driver for the development of the external dimension (Wolff et al. 2010), the governance literature has essentially focused on migration and terrorism (Freyburg 2012; Argomaniz 2009). In fact, European Integration Studies analysing OC policies have been mainly limited to the internal dimension, with the external one only being briefly mentioned (Allum and Den Boer 2013; Fijnaut and Paoli 2004). Even when looking beyond the governance literature, studies focusing on the external dimension of OC policies are not abundant: with the exception of works such as Mitsilegas (2009), Scherrer (2009), and Longo (2003), the export of OC norms to third countries is a field which has received limited attention.

Given this relative gap in the literature, the present article applies the governance theoretical framework to the external dimension of OC policies, in order to consider whether it is a suitable lens to understand the dynamics and practice occurring in this field. It therefore focuses on verifying whether the main features of governance theory can be found in this policy field: 1) a reduced hierarchy; 2) the participation of both public and private actors in decision-making processes; 3) mixed forms of governance; 4) dominant forms of governance that restrict the secondary forms of governance they are combined with; 5) varying forms of governance, depending on the policy field; 6) internal governance dynamics that shape the development of the external dimension of JHA. As the remainder of this article demonstrates, the governance theoretical framework can be partly useful in understanding the integration of OC policy initiatives into the EU's external dimension of JHA. In particular, this study underlines the fact that the external dimension of OC policies includes mixed forms of governance, with hierarchical modes still being dominant, reflecting the way EU internal OC policies developed. The usefulness of this theoretical framework, however, is hampered by the concept of OC itself. As the second and third parts of this article show, despite being discursively very present in the external dimension of JHA, the concept of OC is not easy to operationalise, resulting in a disconnection between rhetoric and practice, and, consequently, in a fragmented field where sub-policies of OC develop autonomously.

THE PERCEPTION OF ORGANIZED CRIME AS A SECURITY THREAT TO THE EU AND ITS LIMITATIONS

Having established how governance literature can help us understand the development of the external dimension of OC policies, this section focuses on the emergence of an understanding of OC as a very serious security threat, which has served as the basis for the development of domestic policies, as well as a motor for the expansion of the external dimension of JHA. Such an understanding, however, has remained limited to the rhetorical level, which has had an impact on the EU's OC governance practice.

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The emergence and development of OC as a threat to the EU

OC is currently considered to be one of the most dangerous threats facing the European Union, with the capacity to destabilise the economic and social fabric of societies, as well as endanger the safety of its citizens (European Parliament 2011). This phenomenon, one of the greatest challenges to law enforcement due to its diversity in operational methods, group structures, and activities, is understood as requiring concerted action by the EU if it is to be tackled successfully (Council 2000a). OC activities range from drug and human trafficking at one end of the scale to cybercrime at the other (Europol 2013).

Although OC is currently understood to be one of the EU's highest-ranking threats, it is actually a considerably recent concept in the European political and legal landscape. While countries such as the United States of America and Italy have long fostered public debates underlining the severity of OC's impact on society and the urgent need to take political and legal action, as late as the early 1980s most European countries still considered this phenomenon to be an external problem with negligible impact within their own borders (Fijnaut and Paoli 2004). This situation gradually started to change, however, with the export of the OC debate from the USA to Europe (Woddiwiss 2003).

It was only with preparations for the implementation of the Single Market, and the perceived need to protect it from abuse, that the European Economic Community (EEC) started to make the case for cooperation in the area of criminal matters (Delors 1991). OC played a particularly relevant role in this process as the perceived need to compensate for the abolition of borders mainly stemmed from the idea that criminals would take advantage of free circulation and that, consequently, their activities would flourish (European Commission 1985). Such a rationale quickly enabled the EEC to move in the direction of introductory measures in the area of police and judicial cooperation in criminal matters: starting with the Schengen Agreement's compensatory measures, member states were soon discussing the German proposal to create a central European Criminal Investigation Office (Fijnaut 1992). By 1992, this security logic, based on internal market negative externalities, had become institutionalised with the acknowledgement of the need to develop a Justice and Home Affairs Pillar and, in particular, of addressing the threat of OC as a common interest (Maastricht Treaty 1992: Art. K1).

It would take another five years, however, before the EU produced the first Action Plan to Combat OC (Council 1997). The latter proposed, in particular, the establishment of the European Police Office, increased cooperation among member states, and pushed for national legislation to be harmonised in this area (Calderoni 2010). These ideas were then transposed onto the Treaty of Amsterdam in 1999, leading to the fight against OC to be fully inscribed as one of the main objectives in the completion of the Area of Freedom, Security and Justice. This implied, in particular, that OC instruments would become part of the JHA five-year programmes: Tampere, The Hague and Stockholm. Since then, the EU has chosen to work towards a common strategy to fight OC, through recommendations and strategies aimed at fostering cooperation between law enforcement bodies, as well as the approximation of national legislation in this area (Longo 2002). There has also been a push for the harmonisation of national definitions of sub-types of OC, such as trafficking of drugs, financial crimes, and trafficking of human beings (Council 2000a). Recently, the attempt to develop a common approach to OC resulted in the adoption of a multi-annual policy cycle with regards to serious international and organized crime (Europol 2012). The latter aims to improve cooperation between all the actors involved in this field, including member states, national law enforcement agencies, European institutions and agencies, and third countries (Council 2010).

The understanding of OC as a very serious security threat has also been reflected in the external dimension of JHA, taking its place as the second-highest priority (after terrorism) of the EU's 2005 Strategy for the External Dimension (Council 2005).

Portrayed as being capable of taking advantage of EU external border vulnerabilities, OC is also perceived as fuelling a vicious circle of poverty, crime, corruption and instability, at a high cost for individuals living on either side of the border (ibid). Despite the relevance of EU home-grown OC groups, OC stemming from neighbouring countries and beyond is interpreted as representing a higher degree of threat and urgency (Europol 2013). In this sense, the current understanding of OC has been highly instrumental in the development of the external dimension of JHA, one of the main justifications for the need to develop and expand the external dimension (Wolff et al. 2010; Balzacq 2009; Henderson 2005).

The limitations created by the EU's rhetoric on OC

Although this rhetoric has become very visible in EU official documents (European Commission 2008a; Council 2006, 2005, 2000b, 1998a), it is not clear whether it has been entirely transposed into EU practice. As the third section of this article shows, despite a strong awareness of the need to provide further coherence to the fight against OC, the external dimension of OC policies has resulted in a disjointed field (Council 2011a; Council 2009). It has been characterised by an absence of a common approach, with sub-policies (such as drugs or trafficking of human beings) often being developed in an isolated fashion, not only from each other but also from the rationale of the fight against OC. As well as the reasons for this disconnection between rhetoric and practice, this section explores the difficulty in operationalising the concept of OC, and the lack of express legal competences for the external dimension of OC policies.

Regarding difficulties in operationalising the concept, the EU's definition of OC has remained extremely vague, despite attempts to develop a common classification (Allum and Den Boer, 2013; Carrapico 2011). Although there seems to be a consensus regarding the degree to which OC is dangerous, academic discussions on whether OC should be defined on the basis of its organisational structure, or on the basis of its activities, have not produced substantive results (Dorn 2009; Von Lampe 2008; Fijnaut and Paoli 2004). The definition provided by the 2008 Framework Decision on the fight against OC[1] is problematic in the sense that it sheds little light on what constitutes a criminal organisation, and even less where the concept of OC is concerned (Council 2008: 2). It provides no specific indication of the level of organisation necessary for a group to be classified as such, nor does it refer to the length of time the association needs to have existed. From this perspective, it is not a definition that can be easily operationalised, as it opens the door to the inclusion of phenomena as different as the Italian 'Ndrangheta, a group of hooligans, or a teenage street gang. Furthermore, the vagueness of the definition has also discouraged national approaches to OC from becoming harmonised, with the effect of preventing the emergence of a EU common approach to OC, capable of being projected beyond its borders (Allum and Den Boer 2013).

There are also legal consequences, in particular for the clarity, precision and legal certainty of the measures adopted (European Parliament 2009; Mitsilegas 2003). In order to be able to operationalise the European definition, national legislators often have had to be more precise by adding their own interpretation (Calderoni 2010). Given that the EU instruments provided them with such freedom, the end result has been something of diversity in the implementation of the concept of OC, which is likely to affect the way OC external policies are developed (Allum and Den Boer 2013).

In addition to the problem in operationalising a vague concept, there is also the limitation created by the absence of express competences in the area of the external dimension of organized crime policies (Trauner 2011a). In order to circumvent this obstacle, the Union has had to rely on existing competences in other areas, such as trade and development (Smith 2003), or to rely on what Ripma and Cremona (2007)

have called an elaborate set of implied competences based on internal security ones, already provided by the Treaties. Since the Treaty of Lisbon, the EU is now able to act on the external dimension of JHA, provided that there is a corresponding internal objective and external action is considered an essential condition to reach it (Monar 2012; Treaty of Lisbon 2008). In the case of OC, the Treaty specifies in Title V that the Union aims to ensure a high level of security for its citizens, which, together with the perceived external origin of OC, provides it with the possibility of acting externally in this field. This implied competence, however, is still not sufficiently precise to allow for a concrete strategy to be developed on OC. This situation is further complicated by the fact that the Area of Freedom, Security and Justice is a space of shared competence, where member states continue to act in parallel with the Union (Treaty of Lisbon: Art. 4 (2j); Monar 2012). The third section of this article explores how these different limitations are impacting on OC governance practices and resulting in a fragmented field.

THE INTEGRATION OF THE EU'S FIGHT AGAINST ORGANIZED CRIME INTO THE EXTERNAL DIMENSION OF JUSTICE AND HOME AFFAIRS

The fact that OC is a recent concept in the European political and legal landscape does not mean that member states did not have criminality problems prior to its introduction, but rather that they did not conceive of it as OC - thinking of it more as separate types of criminality such as drug trafficking, cigarette and alcohol smuggling, amongst others (Fijnaut and Paoli 2004). This element is of particular importance in understanding the external dimension of OC policies. In fact, what is interesting about the way the latter developed is that, although it constituted a subsequent move towards the internal prioritisation of OC, it also coincided with pre-existing external initiatives in areas that were previously not understood as OC. This overlap, together with the limitations explored in section two, has resulted not in a common approach, but in a policy patchwork due to the lack of coherence among sub-policies (Knelangen 2007). Despite this absence of coherence, the external dimension of OC policies has attempted to follow a governance pattern similar to the remainder of the external dimension of JHA: there has been an expansion of the forms of governance used, with the multiplication of policy instruments and the enlargement of the geographical focus, and new actors have started to participate in governance practice. However, unlike other areas of JHA (Lavenex et al. 2010), hierarchical forms of governance remain very much the rule, as a reflection of OC policies' internal dynamics. In addition, the difficulty in operationalising the concept of OC and the limitations regarding external competences of the EU have also created further obstacles to the external governance of OC policies. The latter's development is analysed in three phases: 1) the genesis phase, 2) the convergence phase, and 3) the geographical diversification phase.

The genesis of the external dimension of OC policies: 1990-1996

The genesis phase is mainly represented by a lack of strategic governance: it includes uncoordinated external initiatives related to the fight against drugs and no reference to the concept of OC, mirroring the domestic EU field of OC policies. Those different initiatives also reflect diverging modes of governance as exemplified by the hierarchical and rigid relations with Central and Eastern European countries, compared to the loose relations with other areas of the world.

Despite timid initiatives in the late 1980s aimed at developing specific external aspects of JHA, attempts to work with third countries to improve EU internal security only started to appear consistently on the EU's agenda with the prospect of EU enlargement to Central and Eastern Europe (CEE) (Balzacq 2009). Motivated mainly by migration concerns (Lavenex 2005; European Council 1992), the Union began to develop a number

of instruments aimed at curbing current and potential migratory pressures stemming from that region (Wolf et al. 2010). Cooperation with CEE states was further reinforced with the 1993 Copenhagen European Council decision to create conditionality criteria for EU membership, according to which new members would be expected to incorporate the EU JHA's *acquis* (European Council 1993).

Although migration is widely regarded as the first field to have led to the development of a JHA-related external dimension (not only due to external migratory pressures, but also because migration and asylum were the first JHA areas to be communitarised, thus facilitating the emergence of an external dimension), OC does not fall much behind. In 1990, the Rome European Council specified that any policy and future agreements towards third countries should take into account the objective of combating drugs (European Council 1990). From this point onwards, there was a mushrooming of drug-related clauses within foreign affairs and trade agreements (Smith 2003). We can see a direct parallel with the European Community's (EC) internal situation, where OC itself had not yet become an issue of debate at European level, but drugs were very much at the centre of health and security concerns (Commission 1985). These agreements included, for example, the Association Agreements signed between Central and Eastern European countries and the European Communities from the early 1990s onwards. The latter included elements aimed at fostering cooperation to increase the efficiency of the fight against the illicit traffic of narcotics (for example: the Association Agreement with Hungary: art. 96).

In addition to trade instruments, we can also observe the emergence of more focused tools, tailored specifically to assist the CEEs in their JHA-related transition. PHARE (Poland and Hungary Assistance for Restructuring their Economies), for instance, was particularly aimed at market restructuring, but also included a multi-beneficiary Drugs Programme. The latter was initiated in 1992 and had a budget of 22 million EUR (from 1992 to 1997) to cover cross border cooperation on drug law enforcement and the transposition of the *acquis* in the areas of money laundering and synthetic drugs (PHARE 1999). This first phase was, however, not limited to the geographical region of Central and Eastern Europe. It also included the granting of special trade preferences to the Andean Region, in 1990, under the terms of the Generalized System of Preferences, a system of exemption to the World Trade Organization rules (Boekhout van Solinge 2002). The special trade preferences aimed at encouraging countries like Bolivia, Ecuador, Peru and Colombia, which were perceived as drug exporters, to replace the cultivation of illicit drugs with legal substances (Atkins 1996). These trade arrangements were complemented by political dialogue (The Declaration of Rome 1996) and by specific technical agreements on the development of mechanisms for the exchange of information on drugs (European Community and Bolivia 1995). This approach marks the EC's attempt to deal with the supply side of drugs, by preventing the arrival of narcotics at its borders (Boekhout van Solinge 2002).

From 1990 to 1996, this was an area with a mix of different instruments focusing on drugs, but characterised by a clear lack of strategy. On the one hand, it includes instruments such as the Association Agreements, which point to the existence of direct and hierarchical forms of governance through conditionality (Lavenex and Schimmelfennig 2013). On the other hand, this phase also includes instruments such as the agreement with the Andean Region, which resemble much more traditional foreign affairs' instruments, but which are also combined with other more flexible and indirect forms of governance, such as political dialogue. Where actors are concerned, it is interesting to note that private actors are essentially absent from this area, which mirrors very much the priorities of the domestic dimension of JHA. Furthermore, this is a phase where the concept of OC is not yet present, being driven instead by the perceived need to fight drug trafficking.

The convergence phase: 1997-2005

As the perceived need to improve the protection of internal security grew, so did the prioritisation of the external dimension of JHA. In this context, the second phase is mainly defined by a convergence process with the remainder of the external dimension of JHA in relation to forms of governance. Furthermore, the publication of the 1997 Action Plan to Combat OC marks the beginning of a distinct phase by mentioning, for the first time, the need to develop an external dimension for OC policies (Longo 2002; Council 1997). From this perspective, it marks an official policy shift from a focus on drugs to the larger concept of OC. Not only is there the recognition of an official strategy for the external dimension of OC policies, there is also an increase in the number of formal structures emerging in this area. However, at the same time as these formal structures seem to point towards a reinforcement of hierarchical forms of governance, the geographical expansion of the external dimension of OC policies has led to the emergence of more flexible modes of governance in relation to more distant countries. Furthermore, despite the increasing rhetorical relevance of OC and the need for coherence within the external dimension, the policy on drugs continued to evolve autonomously in this second phase.

In 1997, the EC agreed to start negotiations with five of the CEE countries and proposed to launch pre-accession instruments that would provide them with the necessary financial and administrative support for the transition (European Council 1997). CEE countries were perceived as a source of OC, as their institutions were seen as unable to guarantee the same degree of protection as could be found in Western Europe (Henderson 2005). Moreover, there was considerable apprehension regarding whether acceding candidate countries would be able to meet their membership obligations (Misilegas 2007). One of the most relevant instruments for the area of OC was the Pre-Accession Pact on OC, signed in 1998 by the candidate countries, which were made to incorporate the EU *acquis* and to strengthen their institutional capacity to fight OC (Henderson 2005; Smith 2003). Among other instruments, PHARE was expanded to new areas, including JHA. The programme involved upgrading the technical skills of criminal investigation forensic units to EU standards, equipment modernisation related to visual records of suspected criminals, and training in the detection of radioactive materials (Czech National PHARE Programme 1999). PHARE also had mechanisms for evaluation as increasing emphasis was put on membership being dependent on achieving explicit objectives. PHARE assistance in JHA was further reinforced through a pre-accession pact on OC between member states and applicant countries, which aimed to foster a common understanding of this phenomenon and of future policy responses (Council 1998a). In addition to the general PHARE programme, which included provisions on OC, the multi-beneficiary Drugs Programme also continued to develop in parallel (PHARE 1999).

With further action being taken in respect of acceding countries, and the increasing perception that an official and coherent unified external dimension of JHA should be developed, it quickly became apparent that the new EU neighbourhood would also need to be addressed (Kaunert 2010). The decision was taken to develop, from 1999 onwards, Partnership and Cooperation Agreements (PCA) with Eastern European and Asian countries [2] (Wolff et al. 2010; European Council 1999). Like other previous agreements in this phase, the PCAs included JHA provisions, focusing on border detection and on training border staff (Hillion 2005). Some of these agreements were also used as a basis for more specific action in the area of OC, such as the 'EU Action Plan on Common Action for the Russian Federation on Combating OC' (Council 2000c). The number of countries benefitting from EU assistance in the area of OC was further expanded following the Kosovo War. In an attempt to ensure lasting peace in the region, the Stability Pact for the Balkans was created in 1999, followed by the CARDS Programme (2000), which was aimed at involving South-Eastern European countries in the stabilisation and association process (Trauner 2011b).

With the development of the Pre-Accession Programme, EU member states started to fear that concentrating EU resources in Central and Eastern Europe could lead to an imbalance in the geographic centre of power, and to instability in the Mediterranean region (Bach and George 2006). The Presidency of the EU responded to these concerns by launching the Euro-Mediterranean Agreements, which were signed with seven countries[3] between 1998 and 2005 (Wolf et al. 2010). Their objective was to provide a framework for a North-South political dialogue that would encourage trade liberalisation in the Mediterranean region (Council 1998b). While these agreements also included JHA elements, OC was not included in a systematic way (Instituto de Estudios Europeos 2006).

Although at this stage the issue of drugs was starting to be understood in the framework of OC, the EU drugs external agenda continued to evolve autonomously from that of OC. Just as in the first phase, Latin America continued to be the main priority of this agenda, although the EU also decided to expand this type of cooperation to ACP countries (Africa, Caribbean and Pacific), in particular in the areas of drug trafficking, the production of precursors and money laundering (The Declaration of Rome 1996). Cooperation with ACP countries in the fight against drugs was initially developed in the context of the United Nations 1996-2001 Barbados Plan of Action and then continued in the framework of the Panama Action Plan (1999) and the Cotonou Agreements (2000). In the case of both Latin American and ACP agreements, countries continue to have a substantial say in the planning of changes and in the way they decide to use EU funds (Boekhout 2002).

This period of the external dimension of JHA is defined by two trends: a deepening of existing cooperation and a diversification of the instruments used (Trauner and Carrapico 2012; Longo 2003). In this convergence phase, the external dimension of OC began to align itself with the general external dimension and to follow a similar governance pattern. Where deepening is concerned, we can see the emergence of more aggressive governance modes on the part of the Union, closely monitoring agreements with acceding countries and creating a more hierarchical process of norm transfer, including: the transfer of legal norms through the incorporation of legislation; the transfer of skills through training; and the transfer of technology through funding (Lavenex and Schimmelfennig 2013). In addition, we can also observe a diversification of the modes of governance with a rapid increase in the number of instruments and geographical foci, with the EU multiplying the number of agreements including OC provisions, and running anti-drug trafficking programmes in more than 100 different countries (Smith 2003). By comparison with phase one, there is a tendency to deepen the hierarchical forms of EU governance with neighbouring countries, at the same time as more flexible modes of governance continue to emerge with Latin American and ACP countries. Also characteristic of this phase is the maintenance of the drugs priority as a separate strategy, which is reflected in different instruments. It is indicative of a lack of coherence between the EU's rhetoric (which tries to develop a holistic approach to OC) and the EU's external practices.

The geographical and policy diversification phase: 2005-present

The transition between the second and third phases of the external dimension of OC policies is marked by the publication of the EU's 'Strategy on the External Dimension of JHA: global freedom, security and justice', which refers to the fight against OC as its second priority after terrorism (Council 2005). However, the creation of a general strategy for this area did not bring further coherence to the field of OC policies, which continued to be represented by fragmented forms of governance, tailored to specific geographical regions and sub-types of OC activities.

The beginning of this phase also coincides with the development of the European Neighbourhood Policy (ENP) in 2004, which was first outlined in the Commission

Communication 'Wider Europe' (2003) and further expanded upon in the 'Strategy paper on the European Neighbourhood Policy' (European Commission 2004). The purpose of the ENP is to deepen the agreements mentioned in the convergence phase, by replacing them with bilateral agreements between the EU and Eastern European countries/Mediterranean countries, and thus accelerating economic and political reforms (Commission 2004). The ENP is complemented by regional multilateral co-operation initiatives: the Eastern Partnership (2009), the Union for the Mediterranean (2008) and the Black Sea Synergy (2008).

Where organized crime is concerned, again, the objective of the ENP remains very much connected to the protection of the EU external border (Commission 2006). The Eastern Partnership has promoted the adoption of OC legislative and institutional frameworks and their effective implementation, focusing specifically on regional cooperation, law enforcement training, and the ratification of international instruments (Commission 2012). In addition to the traditional institutions in this field, new actors have also emerged in the context of the Eastern Partnership: Europol, in particular, has invested greatly in strategic and operational cooperation with this region (Strategic Agreements with Ukraine and Moldova). This is a model of governance which the Commission is encouraging other European internal security agencies, such as the EMCDDA, CEPOL and Eurojust, to pursue (Commission 2011).

The Union for the Mediterranean was created with the objective, amongst others, of developing instruments to fight cross-border OC, but due to complications in the Arab-Israeli peace process and instability in general in the Mediterranean, very little has been put into practice regarding OC (Balfour and Schmid 2008). Finally, the Black Sea Synergy finds itself in a similar situation as the Union for the Mediterranean, with limited progress being achieved regarding its cross- border crime objectives. With the exception of a few projects in the area of trafficking of human beings, the Black Sea Synergy has focused its efforts more on environmental and energy security (Commission 2008b).

The third phase of the external dimension of OC has also been marked by an expansion to new geographical regions beyond the European neighbourhood, in particular West Africa (Aning 2009), Brazil (European Commission 2007), China (Bienkowski 2012) and India (European Commission 2013). Given the importance acquired by the cocaine route passing through West Africa, the EU has decided to step up its cooperation with countries in this area by providing law enforcement authorities with training, technical support and funding through the Instrument for Stability (European Commission 2013). Cooperation with Brazil was equally motivated by drug trafficking concerns, although so far it has expressed itself in a looser format, with both sides exploring the possibility of exchanging best practices and information (Council 2011b). In 2007, the EU and China started negotiations to sign a EU-China Partnership and Cooperation Agreement, given the EU's interest in cooperating with China in the area of readmission, visas, trafficking of human beings and cyber crime (Parliament 2012). For the moment, however, OC is mainly discussed at the political level through EU-China Regular High Level Consultations (Bienkowski 2012). Finally, the cooperation with India is taking place within the framework of the EU-India Strategic Partnership, which has recently started to include JHA issues (European Commission 2013). Although the focus seems to be more on counter-terrorism cooperation, there is also political dialogue related to the fight against OC, drug trafficking and money laundering.

Despite this geographical expansion including an increase in the number of policies associated with the concept of OC (trafficking of human beings, money laundering, cyber crime), we continue to observe a disconnection between the different initiatives, especially regarding the area of drugs (Council 2011c). The third phase of the external dimension of OC policies constitutes a continuation of the trends inherited from previous phases. It is defined not only by a further expansion of hierarchical forms of governance in the context of ENP (although with mixed results, see Monar 2010), but also by an extension of the external dimension to new geographical regions, such as West Africa,

Brazil, China and India, through flexible networks of governance between law enforcement authorities and local administrations. The latter has also started to include a larger array of OC-related activities, although there is, so far, little indication of any coherence among them. This last phase has, nevertheless, an innovative aspect with new actors emerging in the external dimension of OC policies and contributing to new modes of governance, namely more operational ones, as is the case of Europol.

CONCLUSION

This article contributes to the literature on the external dimension of JHA by exploring the policy area of OC, which has, so far, received limited attention. In particular, it focused on how the EU has been developing its external dimension of OC policies, and on whether we can consider this field to be evolving in the direction of a coherent set of practices. In the first section, I proposed to inscribe this topic within the broader theoretical debate of EU governance and, on the basis of how this framework understands the external dimension of JHA, sought to verify throughout the second and third sections of the article whether the main features of EU governance could also be identified in the case of OC policies. The first section identified six features, namely: a reduced hierarchy; the participation of both public and private actors in decision-making processes; mixed forms of governance; dominant forms of governance that restrict the secondary forms of governance they are combined with; forms of governance that vary according to the policy field; and internal governance dynamics which shape the development of the external dimension of JHA. On this basis, the second part of the paper discussed the emergence of the EU's OC threat perception and its rhetorical projection onto the external dimension. This section also proposed that the development of an external dimension of OC policies might be hampered by two important elements: the difficulty in operationalising the concept of OC and the lack of EU legal basis for external action in this field. As a result, I identified a disconnection between the rhetorically emphasised importance of OC and the practice being developed in the external dimension. The purpose of the last section was to apprehend how that disconnection has been taking shape in practice, and whether there is any evolution towards a more coherent approach.

Throughout three distinct phases of the external dimension of OC policies, the EU governance theoretical framework was applied in order to understand how the EU has been integrating OC initiatives into its JHA external dimension. I concluded that the governance theoretical framework can only be partly useful in understanding the integration of OC policy initiatives into the EU's external dimension of JHA. On the one hand, this study underlines that the external dimension of OC policies includes mixed forms of governance, with hierarchical modes still being dominant, reflecting the way EU internal OC policies developed. On the other hand, however, the usefulness of this theoretical framework is hampered by the concept of OC itself. As the second and third parts of this article showed, despite being discursively very present in the external dimension of JHA, the concept of OC is not easy to operationalise, resulting in a disconnection between rhetoric and practice, and, consequently, in a fragmented field where sub-policies of OC develop autonomously. Finally, I proposed that the field has been evolving in the direction of differentiated forms of governance, due to the co-existence of hierarchical and flexible forms of governance, which are being applied to different geographical regions and sub-policy areas of OC. In fact, it is the case that despite trying to mirror other areas of the external dimension of JHA, the concept of OC and the lack of an explicit legal basis prevent this field from becoming more coherent. It would, therefore, be interesting for future research to explore how the EU external dimension of OC policies will continue to be governed and to analyse in greater detail which tools the EU will use in order to bridge the rhetoric-practice divide.

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[1] According to the 2008 Framework Decision on the fight against OC, a 'criminal organisation' means a structured association, established over a period of time, of more than two persons acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit (Council 2008).

[2] The countries in question were the Russian Federation (1998), Ukraine (1998), Moldova (1998), Armenia (1999), Azerbaijan (1999), Georgia (1999), the Republic of Kazakhstan (1999), the Kyrgyzstan Republic (1999), and Uzbekistan (1999).

[3] The seven countries that signed Euro- Mediterranean Association Agreements between 1998 and 2005, were the Republic of Tunisia (1998), the Kingdom of Morocco (2000), the State of Israel (2000), the Hashemite Kingdom of Jordan (2002), the Arab Republic of Egypt (2004), and the People's Democratic Republic of Algeria (2005).

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