



# Organised Crime Situation Report 2002

## Federal Republic of Germany

- Summary -



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- Press release summary-

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**Bundeskriminalamt Wiesbaden in co-operation with the State Criminal Police Offices,  
Koblenz Border Police Headquarters and Cologne Zollkriminalamt**

**BKA - OA 11, June 2003**



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## 1 Preliminary Remarks

This is the 12th Federal Organised Crime Situation Report. The Organised Crime Situation Report has been compiled annually since 1991 and provides information on the fight against Organised Crime (OC) in Germany.

The Federal Organised Crime Situation Report aims to depict developments and peculiarities in the field of OC, to sensitise the law enforcement authorities throughout Germany to new trends, to provide information for police leadership to demonstrate the need for action and combating measures resulting therefrom and to advise crime policy. The press-release summary is intended to meet the information requirements of research, science and the general public.

Organised crime is only revealed by law enforcement action, i.e. the intelligence on the situation depends on the scope and intensity of the efforts of the law enforcement authorities.

In this respect, the OC situation report, with the annual results of the investigation work by the police and customs regarding criminal proceedings, describes only information relating to detected crime, which does not permit conclusions to be made on undetected crime.

The Organised Crime Definition<sup>1</sup> of the Working Party of Police and Judicial Authorities (AG Justiz/Polizei), adopted in May 1990, serves as the basis for collecting data on organised crime. This definition describes the abstract characteristics of organised crime, differentiating between OC and General Crime.

Since 1998, a structural analysis has been incorporated into the situation report in order to meet the extended information requirements of the target groups. This approach, with more of a focus on characteristics, aims at describing and evaluating the group structures and fields of crime within OC in Germany and thus contributes to a better understanding of the current position and the situation in relation to combating this form of crime. The results of the structural analysis are depicted at various places in the Situation Report.

The topic of "money laundering activities and investment behaviour of organised crime groups in Germany" was chosen as the focal point for the structural analysis in this year's report. Furthermore, with a view to existing deficits in the information available, it was agreed to depict the results of the special evaluation by the BKA concerning "links between corruption and OC".

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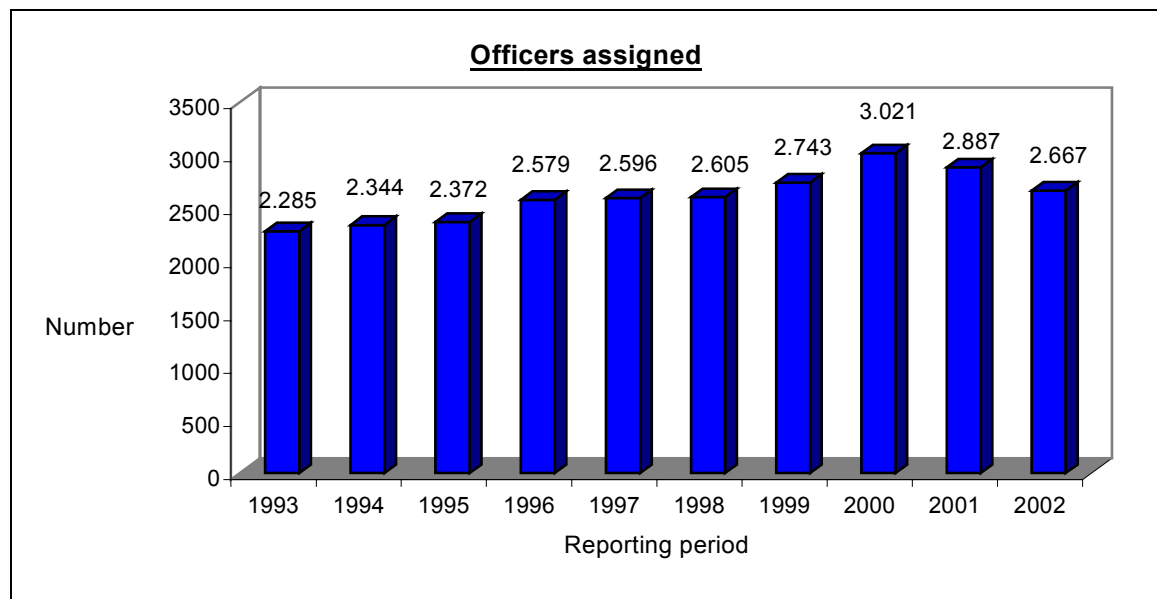
<sup>1</sup> cf. Section 2.2.2

## 2 Situation report

### 2.1 Resources employed

#### 2.1.1 Officers assigned to the investigations

In 2002 a total of 2,667 investigators were assigned to the investigations.<sup>2</sup> Special forces and support staff are not included in the statistics.



The average number of officers assigned to an investigation was 3.9 (2001: 3.7) and in some cases up to 21 investigators.

#### 2.1.2 Authorities in charge

Of the 690 investigations reported in 2002, 320 were conducted by specialised OC offices, 216 by other specialised offices and 109 by joint investigative groups (customs and police), while 45 investigations were handled by special investigation teams set up to deal with specific cases.

As regards judicial authorities, 472 investigations were conducted by specialised prosecutor's offices that focus on OC and/or persons in charge of special OC departments (68.4% of the investigations).

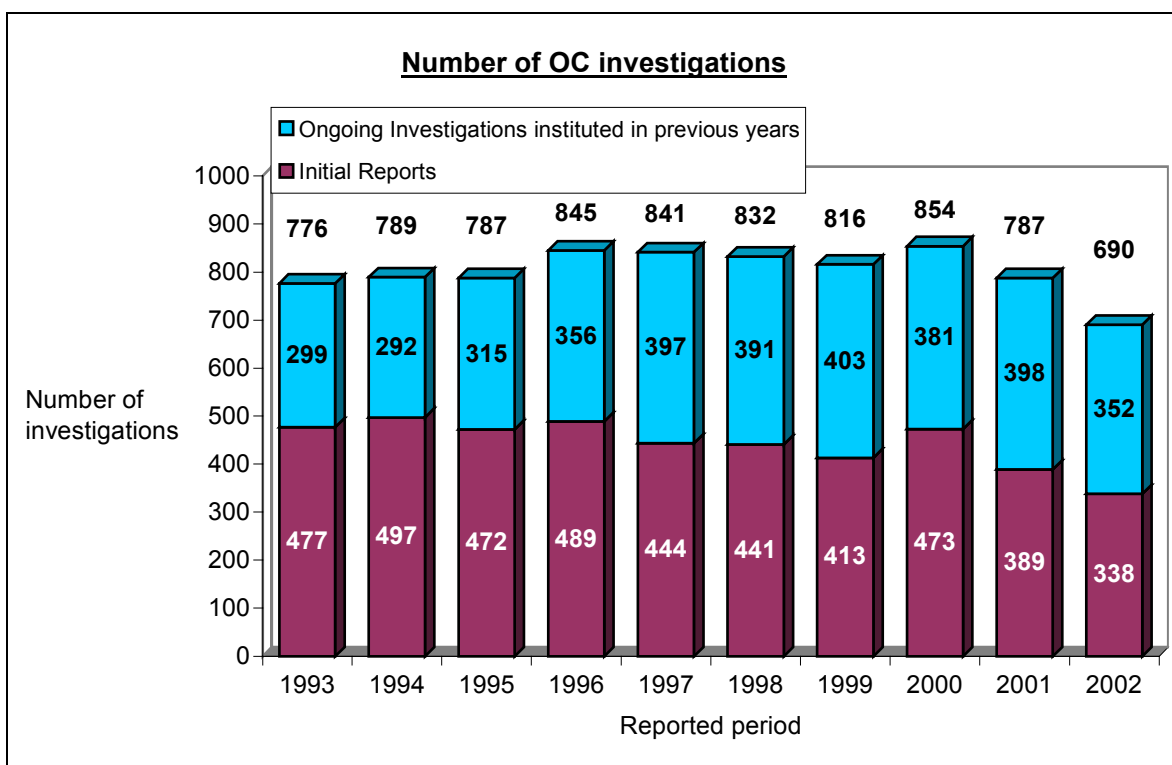
<sup>2</sup> Investigating officers of the Customs Investigations Office have been included since 1996.



## 2.2 Investigations

### 2.2.1 Number of investigations

In 2002, 690 OC investigations were being conducted in the Federal Republic of Germany, 551 of these by the police forces in the Federal States and 139 by federal authorities (Bundeskriminalamt, Federal Border Guard, Customs Investigation Offices). 338 of these investigations were initiated in the year under review (initial reports) and 352 were ongoing investigations instituted in previous years. 375 investigations were completed during the period under review. This was thus for the second year following that more investigations were continued than initiated.



The decrease in the total number of OC investigations included in the situation report (initial reports and ongoing investigations instituted in previous years) amounts to around 12% nationwide, in the case of the initial reports 13%. There are several decisive aspects for this development occurring independently of each other to varying extents in individual states.

A decrease in OC cannot be concluded from the decrease in the investigations. Rather, the intelligence on the situation depends on the resources used and the extent and intensity of the efforts made on the part of the law enforcement authorities.

The regional distribution<sup>3</sup> of the OC investigations can be depicted as follows:

	<b>State</b>	<b>BKA</b>	<b>Fed. Border Guard</b>	<b>Customs</b>	<b>Total</b>
Berlin	79	1	9	7	<b>96</b>
Bavaria	75	1	6	9	<b>91</b>
Baden-Württemberg	52	3	1	20	<b>76</b>
Lower Saxony	55	0	4	11	<b>70</b>
Schleswig-Holstein	59	0	1	4	<b>64</b>
North Rhine-Westphalia	51	2	2	8	<b>63</b>
Hesse	40	2	3	10	<b>55</b>
Hamburg	37	0	1	3	<b>41</b>
Saxony	21	0	3	5	<b>29</b>
Saxony-Anhalt	18	2	2	2	<b>24</b>
Brandenburg	17	0	1	4	<b>22</b>
Rhineland-Palatinate	18	0	0	1	<b>19</b>
Bremen	10	1	0	0	<b>11</b>
Saarland	6	1	1	2	<b>10</b>
Thuringia	6	1	1	2	<b>10</b>
Mecklenburg-West. Pomerania	7	0	0	2	<b>9</b>

## 2.2.2 OC Relevance of the investigations

The situation report is based on the following definition of organised crime:

"Organised crime is the planned commission of criminal offences determined by the pursuit of profit and power which, individually or as a whole, are of considerable importance and involve more than two persons, each with his/her own assigned tasks, who collaborate for a prolonged or indefinite period of time

- a) by using commercial or business-like structures,
- b) by using force or other means of intimidation or
- c) by exerting influence on politics, the media, public administration, judicial authorities or the business sector."

This definition does not cover terrorist offences.<sup>4</sup>

<sup>3</sup> The location of the public prosecutor's office in charge of the investigation is the criterion for the geographical distribution of Customs, Fed. Border Guard and BKA investigations.

<sup>4</sup> GAG Justiz/Polizei (Working Party of German Police and Judicial Authorities, May 1990)

The term "Organised Crime" comprises certain forms of criminal behaviour that are connected with particular threats to public security as the threat does not emanate from individual criminals but from permanent criminal structures.

The definition OF OC consists of two parts. All general characteristics and one of the specific characteristics listed under a) to c) must be fulfilled for criminal behaviour to be defined as Organised Crime.

For the 2002 Situation Report new data <sup>5</sup> on OC relevance were given regarding 424 investigations. The following data were provided:

- 367 investigations: criterion a) applied  
*("by using commercial or business-like structures"),*
- 210 investigations: criterion b) applied  
*("by using force or other means of intimidation"),*
- 81 investigations: criterion c) applied  
*("by exerting influence on politics, the media, public administration, judicial authorities or the business sector").*

as a distinguishing feature of the organised crime definition.<sup>6</sup>

The term **commercial structures** is generally used to describe enterprises that are officially registered. Within the meaning of the OC definition, the use of commercial structures is characterised by the (joint) use of existing, primarily legal companies or companies especially founded for criminal purposes. The commission of the offence must be linked to a real or faked economic activity.

In contrast to this, the term **business-like structures** generally covers factors that do not fit the other categories in criterion a). Such structures are often considered to exist if the perpetrators proceed in a particularly professional manner. Specifically, business-like structures can, for example, be used as follows:

- Delivery, transport, marketing and sales operations for illegal goods based on established work flows that function smoothly,
- Market-oriented practices common in businesses such as taking of orders, use of varying sources for narcotics, etc. or
- Rendering of specific, co-ordinated services to assist in the field of alien smuggling.

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<sup>5</sup> 338 initial reports and 83 ongoing investigations instituted in previous years that include new information on OC relevance

<sup>6</sup> Multiple responses possible

The ***use of violence or threats of violence*** is an important way to ensure that demands are met or to maintain group discipline (inward/outward violence).

The subjective aspect, i.e. the question as to whether the threat of violence is eventually taken seriously by the person concerned and is thus sufficient to ensure compliance with demands, is a decisive factor in this connection. A special form of violence is to appear in large groups in an ostentatious manner. Thus, a position of power achieved by making reference to membership in the respective group can also be sufficient to ensure submission. In this context, the recognisable use of force is no longer necessary.

In 2002, verifiable cases of ***exerting influence on politics, the media, public administration, judicial authorities and the business sector*** were recorded in 81 (19.2%) of the investigations. Thus, this organised crime criterion was met much less frequently than the other criteria in the OC definition.

The threshold to reprehensible forms of influence is much lower than that for acts of corruption punishable under criminal law.

A relatively small number of investigations (16) established acts of corruption subject to the provisions of sections 331-335 of the German penal code (corruption by or involving public officials) or sections 299 and 300 of the German penal code (corruption in business dealings). During the investigations, 25 offences of granting a benefit, 50 offences of offering a bribe, 32 offences of accepting a benefit and 157 offences of taking a bribe were disclosed. Offences pursuant to sections 299 and 300 of the German code were revealed in 95 cases.

A project implemented by the BKA in 2002 concerning the links between corruption and OC led to the assessment being made that crimes involving corruption are not an integral element of OC in Germany but seems to be one means used more or less professionally.<sup>7</sup>

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<sup>7</sup> cf. section 3.2

### 2.2.3 Initiation of investigations

In 294 cases (42.6%) investigations were initiated on the basis of leads from other proceedings (of the same service or another law enforcement agency). 184 investigations (26.7%) were instigated on the basis of complaints filed with the investigating authorities. The percentage of investigative proceedings initiated on the basis of the police actively obtaining information (intelligence from undercover investigators/confidential informants, investigations on the initiative of the authorities, evaluations independent of investigations or involving more than one investigation, random checks) amounted to 23.2% (160 investigations). In the remaining 52 cases (7.6%) suspicious transaction reports in accordance with the Money Laundering Act, anonymous tips as well as leads from other services/authorities (not law enforcement agencies) were the starting point for the OC investigations.

### 2.2.4 Length of investigations

Of the 690 investigations, 375 were completed in the period under review. The average length of the investigations conducted in 2002 was about 16.5 months. The longest proceedings lasted 88 months.

### 2.2.5 Losses and profits

The **total losses**<sup>8</sup> arising in the period under review amount to **EUR 3.1 billion** meaning more than double the previous year (€ 1.2 billion), an increase that was caused particularly by one large-scale investigation. As in previous years, the highest losses arose from economic crime and tax offences.

The **profit** made by criminal organisations is estimated at approx. **EUR 1.5 billion** (€ 0.76 billion the previous year). Due to the modification of the criteria for collecting data to close up gaps in the coverage<sup>9</sup>, it is not possible to compare the total profits directly with the previous years. The largest profits were achieved with crime in connection with the

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<sup>8</sup> Losses as defined by the Police Crime Statistics guidelines are the illegally obtained monetary value (market value). For import duty and tax evasion and for subsidy fraud in connection with the marketing regulations of the European Union, losses are defined as the amount evaded or the unjustly received subsidies.

<sup>9</sup> Until 2001 profit estimates were made only concerning those investigations for which no losses were recorded in accordance with the Police Crime Statistics guidelines. As of 2002 the recording of profits was extended to cover all investigations.

business world, with tax and customs offences and with drug smuggling and trafficking (approx. € 157 million).

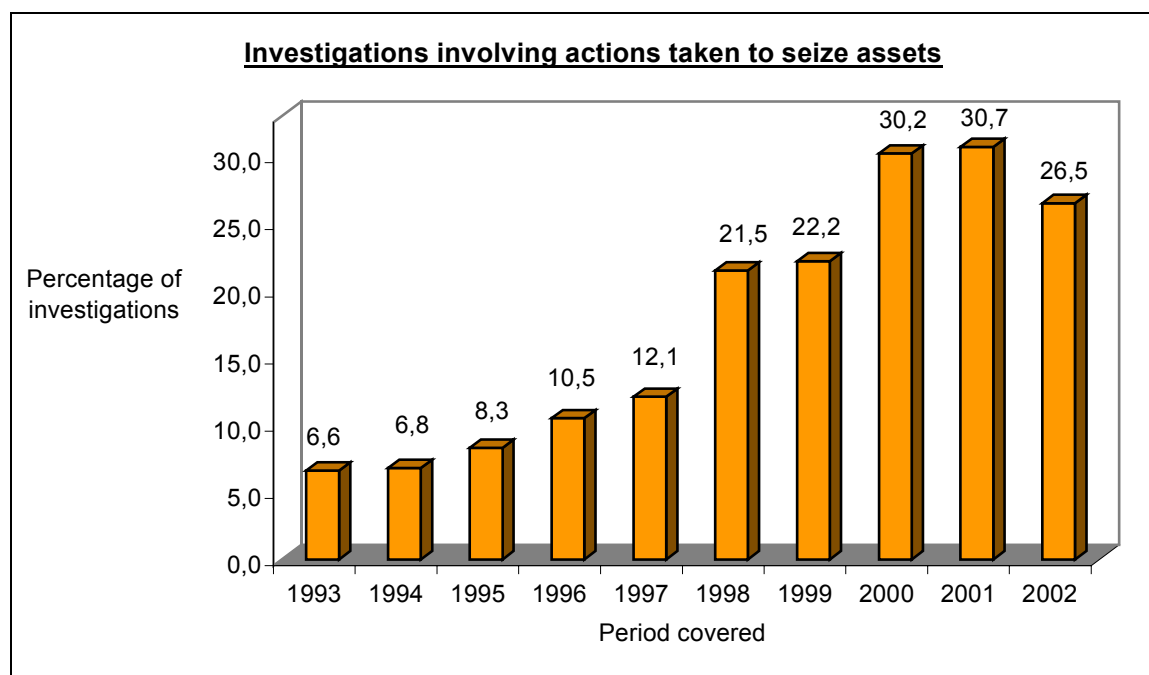
Adding profits and losses or comparing profits with losses would be methodically false. Both would lead to false conclusions. The point of view of the victim is decisive for recording losses, while recording profits is related to the perpetrator. The fact that a profit is made illegally does not automatically mean that corresponding losses are caused. Thus for example, large profits are made in drug smuggling and trafficking without it being possible to measure direct losses caused in the sense of the Police Crime Statistics criteria for recording data.

### 2.2.6 Action taken

#### Confiscation of assets

In about every fourth investigation action was taken to ensure assets were confiscated. In these investigations, cash, money held in bank accounts, real estate and motor vehicles worth a total of about **EUR 31 million** were provisionally seized.

The largest assets were provisionally seized in investigations connected with drug smuggling and trafficking, crime in connection with the business world and tax and customs offences. Very large assets were seized from suspects belonging to German and Turkish OC groups.



### Information on money laundering offences

In 117 OC investigations, information was obtained relating to money laundering offences pursuant to section 261 of the German Penal Code. In this connection 171 suspicious transaction reports pursuant to section 11 subsection 1 of the Money Laundering Act were made that relate to 54 of these investigations.

### **2.3 OC potential of groups of perpetrators**

The term "OC potential" is used to express the level of organisation and professionalism of the groups of perpetrators. The OC potential is calculated using a system of weighted OC indicators and is portrayed on a scale from 1 (= very low) to 100 (= very high). This makes it possible to show the significance of the individual phenomena of organised crime in relation to each other.

In 2002, the year under review, the average OC potential of all groups was 40.5 points. As a rule, groups with a low level of OC potential only fulfil the minimum requirements of the OC definition and their structure is not consolidated to any considerable extent.

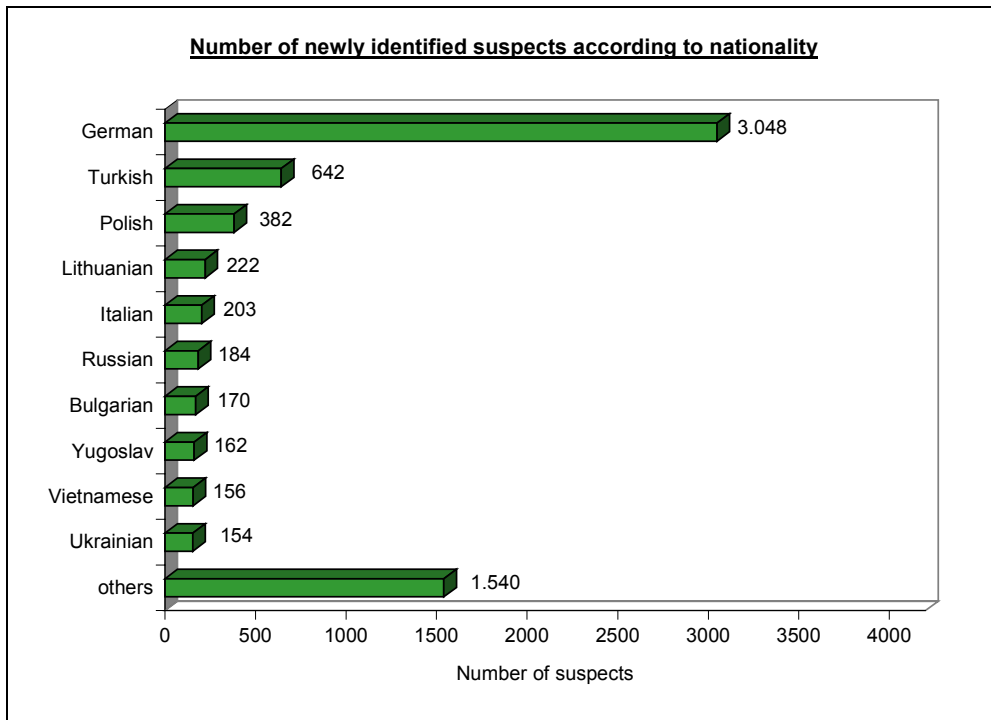
Groups with a medium-level of OC potential that already have consolidated group structures and work professionally continue to be in the majority in terms of numbers. More than a quarter of all groups had an OC potential of between 30 and 40 points.

As in previous years, only around 12% (2001: approx. 10%) of the groups had a comparatively high level of OC potential of more than 60 points.

### **2.4 Suspects / Group structures**

Last year a **total** of approximately **13,825 suspects** (2001: 15,237) were identified, of these 6,864 (2001: 7,844) were new to the statistics. The reduction of approx. 12.5% in the newly identified suspects roughly corresponds to that of the previous year (13%); it also corresponds to the development in the numbers of investigations.

The suspects were from 88 **nations** (previous year 87).



In the year under review, German nationals again made up the largest group among the total number of suspected offenders (44.4%, in the previous year 47.9%). As in previous years, Turkish nationals continued to head the list of non-German suspects. They were followed by Polish and Lithuanian suspects.

A total of 684 suspects (10%) come from C.I.S. countries: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Belarus.

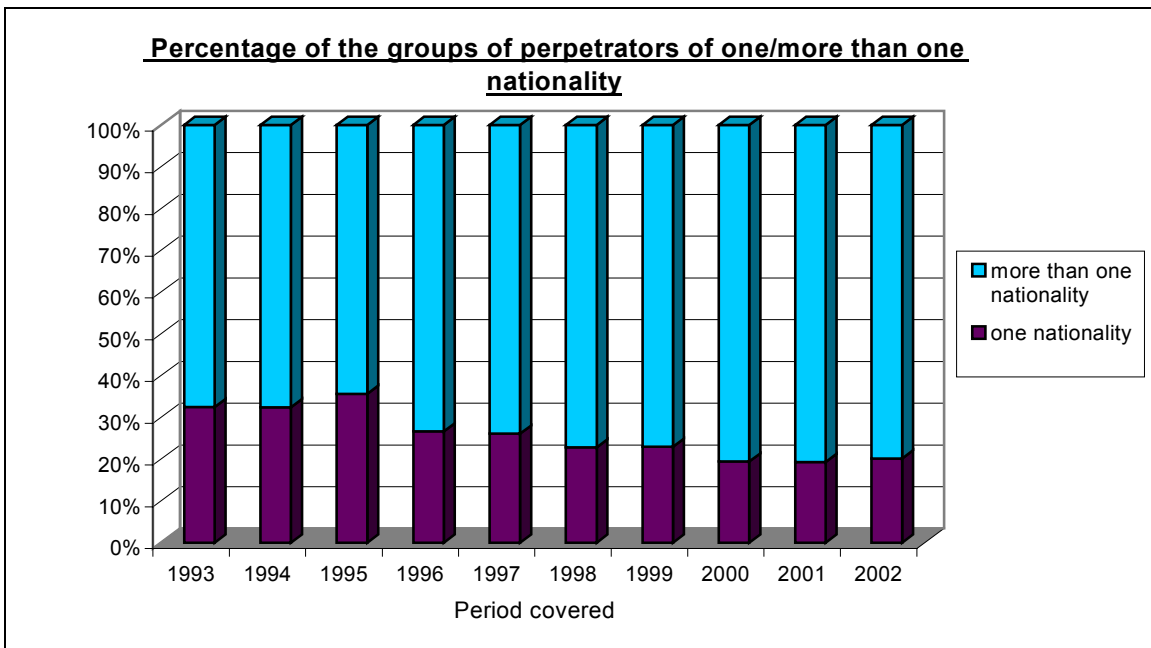


Composition of the groups

The number of suspects per investigation ranged from three to 337 persons and averaged 20 persons. The size of the OC groups can be classified on the basis of 476 investigations<sup>10</sup> as follows:

Up to 10 suspects	224 Groups
11 to 50 suspects	213 Groups
51 to 100 suspects	29 Groups
more than 100 suspects	10 Groups

20.2% of the groups comprised suspects of only one nationality. In the remaining investigations, the groups had members from as many as 15 nationalities; in most cases, two or three nationalities were represented.



<sup>10</sup> 338 initial reports and 138 ongoing investigations that include new data on suspects.

### **2.4.1 Germans**

In the year under review, German nationals again made up the largest proportion of the OC suspects (44.4%).

As in previous years, the activities of German OC groups were concentrated in the fields of drug smuggling and trafficking (especially cocaine and cannabis products), crime associated with the business world and crime associated with nightlife. The proportion of activities related to facilitation of illegal immigration has considerably increased in comparison to the previous year.

German OC groups that operate in more than one area of crime can be qualified as having on average a higher OC potential than groups operating in one specific field of crime. Common combinations prevalent among these groups were drug-related crime and theft-type property offences, crime associated with nightlife and arms trafficking as well as crime in connection with the business world and motor-vehicle related property offences.

The large losses and profits in connection with German OC groups (€ 477 million losses, € 462 million profits) are caused, above all, by the large proportion of offences in connection with the business world.

The situation report contains 783 German suspects (a proportion of 13% of all German suspects) who were nationals of a different country at birth. They stem from a total of 47 states, in particular the Russian Federation, Poland and Kazakhstan.

The proportion of resettlers (ethnic Germans) from the former Soviet Union among the OC suspects in Germany is 3.6%. There were 80 OC investigations involving the 492 resettlers. Those OC groups that are dominated by resettlers have a low level of OC potential in contrast to their high level of violence potential. In the main, these OC groups are involved in drug trafficking and/or smuggling of heroin and hashish, cigarette smuggling and offences related to facilitation of illegal immigration.

### **2.4.2 Turks**

Turkish nationals formed 9.4% of all OC suspects. With a proportion of 16.8%, Turkish nationals continue to head the list of non-German suspects.

As in previous years, Turkish OC groups in the main were involved in drug trafficking and smuggling (predominantly heroin trafficking). In addition, these groups primarily concentrated on crime associated with the business world and offences associated with nightlife.

The majority of Turkish OC groups focused their activities on one specific area of crime, in particular in the field of drug-related offences.

### 2.4.3 Yugoslavs

In 2002, there was a clear decrease in the number of Yugoslav<sup>11</sup> suspects. Thus the proportion of Yugoslavs in the total number of suspects decreased to 2.4%. This development may be connected to the continued settlement of the conflicts in the Balkans and a return of Yugoslav suspects to their home country. This assumption is also supported by the decrease in the proportion of suspects from Slovenia, Croatia and Macedonia.

Only one group comprised exclusively Yugoslav nationals. In the other investigations, Yugoslav suspects were operating above all with German, Turkish and Italian suspects.

Despite the decreasing numbers of investigations, Yugoslav groups of perpetrators, who have the second highest OC potential on average, remain a significant OC phenomenon in Germany. These groups can rely on firmly-rooted structures in Germany and are characterised by a marked violence potential.

In 2002, Yugoslav groups continued to focus on drug trafficking and smuggling (predominantly cocaine and heroin). The activities of these groups within the field of facilitation of illegal immigration decreased once more, as in the previous year.

### 2.4.4 Italians

There was a disproportionate reduction in the number of investigations (29) into Italian groups in comparison to previous years (2001: 42; 2000: 63 investigations).

Only five of the Italian groups under investigation in Germany comprised exclusively Italian nationals. The other groups were composed of up to twelve different nationalities. It does not seem to be the rule for Italian groups active in Germany to isolate themselves strictly from the outside on an ethnic basis. Some of the groups under investigation in 2001 proved to be linked to the Cosa Nostra, 'Ndrangheta, Camorra, Sacra Corona Unita (S.C.U.) and Stidde.

More than three quarters of their criminal activities focused on the fields of drug trafficking, economic and financial crime and property offences. Trafficking in cocaine continued to take a central role.

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<sup>11</sup> Since February 2003 the federation of "Serbia and Montenegro" has been the legal successor to the Federal Republic of Yugoslavia. In 2002, the year under review, the suspects are still listed as Yugoslav nationals.

Within crime associated with the business world, the focal point continued to be on fraud. Furthermore, offences that involved illegally hiring out labour as well as tax offences came to light.

#### **2.4.5 Poles**

The number of newly identified Polish suspects rose from 305 to 382. Thus, Polish suspects formed the second largest non-German group of suspects.

The main focus of Polish OC groups continues to be on property offences, in particular international vehicle trafficking as well as tax and customs offences.

Vehicle trafficking as well as alcohol and cigarette smuggling, areas of crime typical to Polish OC groups, require an international modus operandi. The development of such crime phenomena is favoured by Poland's geographical location as a transit country between Germany and its Eastern European neighbours.

The establishment of Polish OC groups in Germany, substantiated by the increase in the number of suspects identified, means a considerable danger potential.

#### **2.4.6 Lithuanians**

This year, the proportion of Lithuanian OC perpetrators among the non-German suspects was, after a 20% increase in 2001, at the level of the previous year.

The largest proportion of the OC groups dominated by Lithuanians were composed of more than one nationality. Within these groups, the Lithuanian perpetrators most commonly worked together with German suspects, of which a large proportion were resettlers from the former Soviet Union.

In the meantime, there are Lithuanians who have established themselves in Germany with a legal residence status who then act as representatives or points of contact for OC groups from Lithuania. These connections are used to provide and recruit criminals from Lithuania.

Around three quarters of the Lithuanian OC groups concentrate on one area of crime. Lithuanian groups operate primarily in the field of property, tax and customs offences, in addition they also appear in other fields of crime (trafficking in and smuggling of heroin and cocaine, trafficking in human beings and offences connected with facilitation of illegal immigration). Just as in the previous year, the property offences of the Lithuanian groups in Germany concentrated on the theft of vehicles and trafficking of the same to Lithuania.

### **2.4.7 Russians**

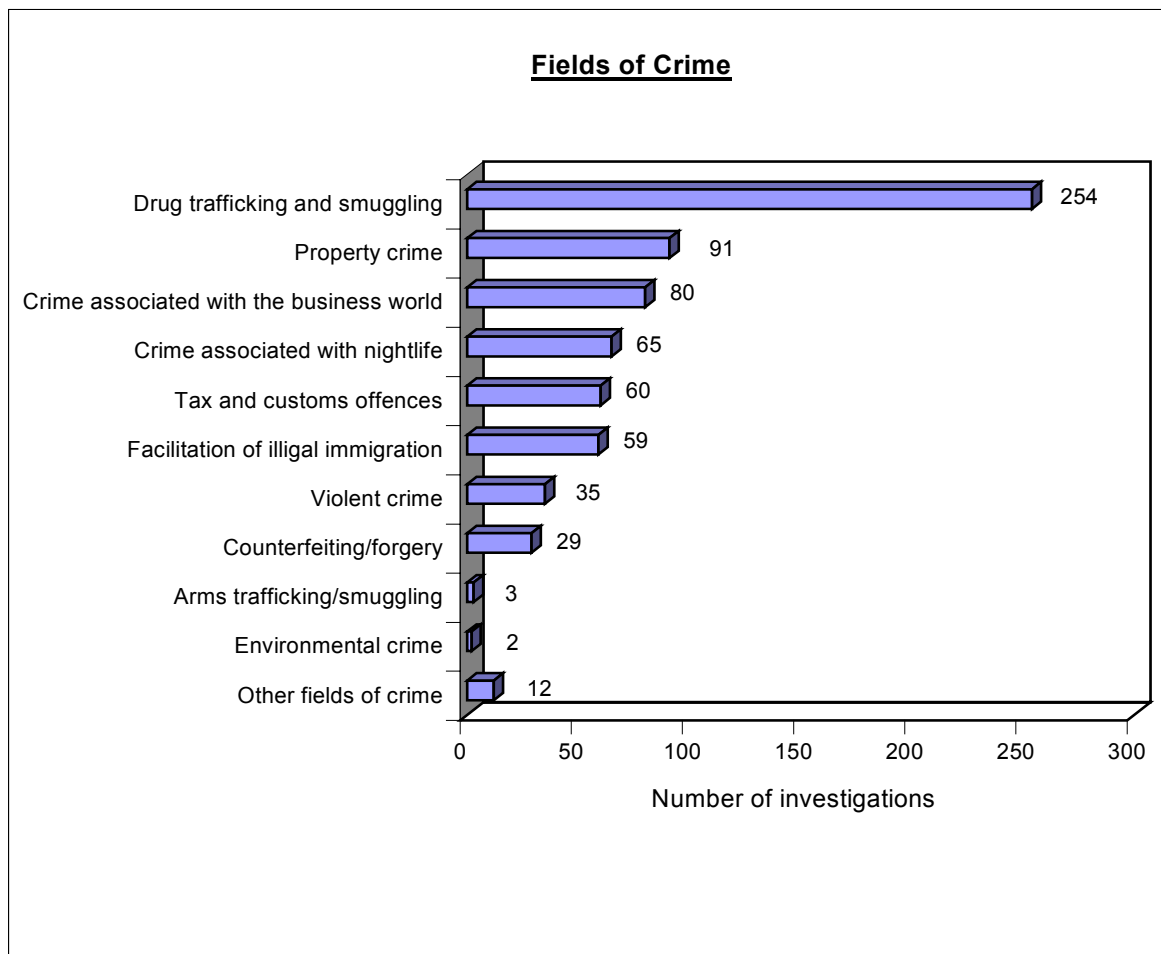
The number of Russians involved in OC in Germany was, with 184 newly identified Russian suspects, roughly at the same level as the previous year (2001: 201 suspects).

The groups of perpetrators dominated by Russians were, with the exception of one, composed of more than one ethnic group and in general two to three. Their OC potential has increased slightly in comparison to the previous year and for the first time meets the average of all OC groups.

As in the previous year, the criminal activities of the Russian groups focused on property offences (with no exceptions, trafficking vehicles to Russia) and violent crime, followed by tax and customs offences (exclusively cigarette smuggling).

## 2.5 Fields of crime

The groups of perpetrators focussed their criminal activities on the following fields of crime<sup>12</sup>:



The focus of criminal activities ascertained by the police has, compared to the previous year, remained unchanged. In 2002, drug trafficking and smuggling (36.8%) once again made up the largest share of organised crime, followed by property crime (13.2 %), crime associated with the business world (11.6 %), crime in connection with nightlife (9.4 %), tax and customs offences (8.7 %) and facilitation of illegal immigration (8.6 %). Arms trafficking and smuggling and environmental crime will not be dealt with in detail in the following section due to the limited number of investigations.

<sup>12</sup> The basis for the assignment of investigations to the fields of crime relevant to OC are the focal points of the criminal activities of the groups of perpetrators.

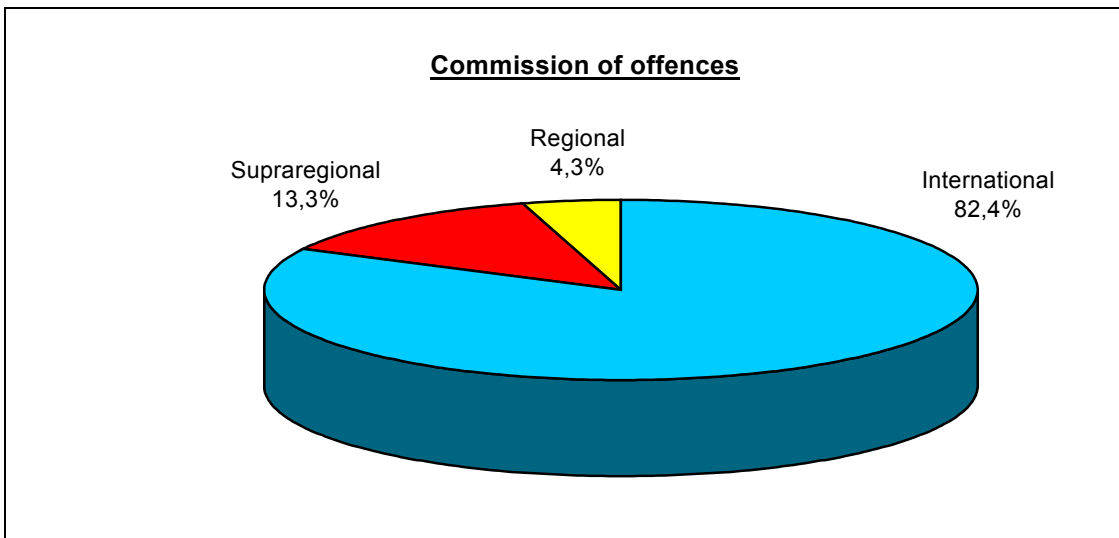
Modi operandi involving more than one area of crime

As in the previous year, about one third of the groups were involved in more than one area of crime. Modi operandi are classified as involving more than one area of crime if a group of perpetrators intends to make profits in more than one field of crime or individual members act in several crime areas in the group's interest.

Groups active in more than one field of crime displayed, on average, a higher OC potential (45.8 points) than those focusing on one area of crime only (about 38.4 points).

Commission of offences

398 investigations (over 80%) revealed links to other countries, i.e. at least one crime scene was located outside Germany<sup>13</sup>. Supraregional connections were established in 64 investigations and regional connections in 21 investigations.



There were international connections to a total of 104 countries, the main countries being: the Netherlands (133 investigations), Poland (65 investigations), Italy (59 investigations), France (58 investigations), Spain (54 investigations), Belgium (51 investigations), the Russian Federation (51 investigations) and Austria (50 investigations).

Compared to the previous year, the number of crime scenes outside Germany and their distribution throughout the respective countries, has essentially remained the same.

<sup>13</sup> With 338 initial reports and 145 ongoing investigations instituted in previous years with data on crime scenes

### 2.5.1 Drug trafficking and smuggling

The focal point of the criminal activities of the OC groups in Germany remained on drug trafficking and smuggling, the proportion of which continued to increase from 35% in 2001 to 36.8%.

More than two thirds of the groups are characterised by a modus operandi focusing on a specific area of crime. Apart from the field of drug-related crime, groups acting in more than one field of crime have primarily come to notice in connection with property offences, weapons offences and crime associated with nightlife.

As in previous years, cocaine and heroin trafficking and smuggling was dominant, followed by trafficking in and smuggling of cannabis products and synthetic drugs.

German nationals take a leading role in cocaine trafficking/smuggling. OC groups from the countries of cultivation in South America continue to play a subordinate role in the distribution of the cocaine in Germany. As a transit country, the Netherlands continue to play an important role in supplying the German cocaine market.

As in previous years, the leaders in heroin trafficking in Germany were Turkish (in particular Kurd) OC groups followed by Albanian and German OC groups, even if their proportionate numbers had decreased. Vietnamese OC groups came to light for the first time in connection with heroin trafficking.

In the year under review, the trafficking in cannabis products was predominantly carried out by German OC groups. An additional role was played by Turkish and, in a handful of investigations, Moroccan groups of perpetrators.

An increase in the investigations focussing on trafficking in and smuggling of amphetamines and amphetamine derivatives can be determined in the year under review. German OC groups continued to dominate their home market in this sector. The Netherlands are still the main country of origin of the amphetamines and derivatives. Smuggling of ecstasy pills, which are predominantly manufactured in the Netherlands, to North America has strongly increased over the last few years. In this connection, Germany mainly served as a transit country. The destination country was the United States of America in every case.



### **2.5.2 Property crime**

With its share of 13.2% of all OC investigations, property crime makes up the second largest field of crime.

This field of crime includes, in particular, organised theft/burglary in/from dwellings or business premises and theft and misappropriation of motor vehicles, non-cash means of payment, identity documents, art objects or objects of value, truckloads followed by central disposal of the loot (handling stolen goods).

As in the past, most property crime clearly involved vehicle trafficking (around three quarters of the investigations). The lion's share of the vehicles were stolen in Germany and taken to Poland, Russia, Lithuania, Belarus and Ukraine. The vehicles trafficked into the successor states to the Soviet Union were taken along routes via Poland and also via various Scandinavian States (Denmark, Sweden, Finland).

To a lesser extent, vehicles stolen in Southern Europe (Italy, Spain) were marketed in Germany or trafficked to eastern Europe via Germany.

Other stolen goods were IT equipment, cash, jewellery and non-cash means of payment. Groups active in more than one area of crime often also committed fraud offences.

Polish and Lithuanian OC groups were responsible for a disproportionate share of property crime, in particular in the field of international vehicle trafficking.

### **2.5.3 Crime associated with the business world**

Within the scope of the OC situation report, the term "crime associated with the business world" covers, among other things, investment offences (in particular investment fraud, participation fraud, fraud in connection with stock market speculation), financing offences, bankruptcy offences, offences in connection with labour, competition law offences, misappropriation and other fraud (in particular fraudulent failure to provide a service, fraud to the detriment of insurance companies).

With its share of 11.6% of all OC investigations, crime associated with the business world makes up the second largest field of crime.

In 2002, the year under review, the OC groups operating in this field of crime focused on a very wide range of activities. The crimes most commonly committed by these groups were financing offences (in particular loan and loan procurement fraud, fraudulent obtaining of goods and immediate disposal of the same), investment fraud (predominantly futures contracts), offences in connection with labour as well as other fraud offences such as

false accounting, fraud concerning the opening of accounts and money transfers and fraud to the detriment of insurance companies.

In comparison to the previous year, the number of investigations focusing on loan fraud and false accounting have particularly increased.

The percentage of German groups active in this area rose again compared to the previous year and is now just under 60%. Italian and Turkish dominated OC groups each made up 10%. OC groups focusing on crime associated with the business world were one of the most long-lived forms of co-operation (on average six years). In this field of crime, the percentage of groups comprised of only one nationality was almost twice the average of all OC fields of crime.

Crime associated with the business world was characterised by groups of perpetrators predominantly operating in one specific field of crime.

#### **2.5.4 Crime associated with nightlife**

Within the scope of the OC situation report, the term "crime associated with nightlife" covers, among others, the following offences: exploiting prostitution, living on the earnings of prostitution, trafficking in human beings/aggravated trafficking in human beings, and illegal games of chance.

As in previous years, the investigations focused on trafficking in human beings/aggravated trafficking in human beings and exploitation of prostitutes. Only two investigations were into illegal games of chance.

Once again, the majority of the women came from eastern Europe. The successor states to the Soviet Union as well as Bulgaria are still the main countries of origin. Most of all, Poland played an important role as transit country.

German OC groups continue to be the most numerous in this field of crime, however, the percentage of the same has decreased continually over the last three years. As ascertained in previous years, more and more non-German offenders are forcing their way into this field of crime still dominated by German groups. They were followed, in terms of numbers, by Turkish, Bulgarian and Lithuanian dominated OC groups.

Especially in the field of crime associated with nightlife the groups often co-operated with other ethnic groups which was, among other things, a result of recruiting women in their countries of origin and taking them to brothels in Germany.

### **2.5.5 Tax and customs offences**

In the year under review, there was a decrease in the number of tax and customs offences of 20% in comparison to the previous year which, according to the assessment of the Zollkriminalamt (central office of the German customs investigation service), can be attributed to the re-organisation of the Customs Investigation Office and concentrating on particularly complex large-scale investigations. Cigarette smuggling played a significant role with its share of 75%. This was followed by VAT carousel fraud and alcohol smuggling as criminal activities of the OC groups.

Tax offences cause large-scale losses to the national economy due to the shortfall in tax revenue.

Most of the groups smuggled cigarettes to Germany from Lithuania, Russia and Ukraine via Poland. Alongside these activities, cigarettes were smuggled in particular via Belgium to Great Britain as the profit margins are particularly high in Great Britain as a consequence of the dramatic increase in tobacco duty. Furthermore, smuggling of fakes (counterfeit cigarettes) from the Far East (China) is also a significant factor.

Tax and customs offences were committed to a great extent with specialisation in one specific field of crime. Modi operandi involving more than one area of crime covered, in addition to the tax offences, facilitation of illegal immigration and drug smuggling.

Most of the OC groups involved in tax and duty offences were dominated by Germans (around one quarter of the investigations). They were followed, by a wide margin in terms of numbers, by Polish, Vietnamese, Lithuanian and Russian dominated OC groups.

Groups from Central and Eastern European states played a leading role in smuggling in cigarettes, while Vietnamese groups predominated in the marketing of the cigarettes. Groups dominated by Germans and Italians were preeminent in VAT carousel fraud.

### **2.5.6 Facilitation of illegal immigration**

In this field of crime, OC groups provide support for illegal entry and illegal residence by aliens; this support involves gang-type activity on a commercial basis. Furthermore, this term also covers the transport of illegal immigrants through and into other countries.

The illegal immigrants originated in a multitude of states, in particular Eastern Europe, the Near East and Central Asia. In comparison to previous years, there has been a dramatic decrease in the smuggling of Yugoslav nationals which may well be connected with the easing of the political situation in Yugoslavia.

In the OC investigations analysed during the period under review, Ukraine and Iraq are the countries most frequently mentioned as the illegal immigrants' home countries. The Czech Republic, Poland, Italy and Austria are the most significant transit countries. Human beings were increasingly smuggled to other European target countries, predominantly Italy, Spain and Portugal.

Modi operandi involving more than one area of crime covered in particular trafficking in human beings and drug smuggling and trafficking.

In the previous years, facilitation of illegal immigration was always dominated by non-German groups. In the year under review, there was, however, a clear increase in German groups of perpetrators. Furthermore, over the years there has been a continual decrease in Yugoslav OC groups.

There is a close connection between the involvement of groups of foreign perpetrators and recruitment of persons willing to illegally immigrate in their countries of origin and their activities in the transit countries.

### **2.5.7 Violent crime**

In the OC situation report the term "violent crime" covers, among others, the following offences: extortion, protection racketeering, robbery, offences against personal liberty, and offences against life.

When violence is used solely as a supporting measure to commit offences in other fields, it constitutes violence in the sense of criterion b) of the OC definition, but such violent behaviour does not fall into the category of "violent crime".

As in the previous years, crimes of extortion, such as protection racketeering, and robbery, in particular robberies on banks, money transports and jeweller's formed a clear focal point in investigations reported in the field of violent crime.

The preeminent nationalities in this field of crime were Germans, Russians and Poles. More than half of the groups active within the field of violent crime continued to be marked by strict ethnic isolation. Russian suspects committed in particular extortion and robbery offences, Polish OC groups mainly committed robberies on banks and jeweller's shops as well as smash and grab burglaries.

### **2.5.8 Counterfeiting/forgery**

Around half of the OC investigations within this field of criminal activity focused on the production and distribution of counterfeit money. This was followed by faking of non-cash means of payment and document forgery.

In the main, the fakes originated in Germany and Bulgaria and were used for criminal activities in the Federal Republic of Germany. Activities in the field of counterfeit money were predominantly targeted at the production of EUR and USD counterfeits.

Around one quarter of the investigations were into Bulgarian dominated OC groups. Groups dominated by Yugoslavs and Germans played an additional role.

Most offenders focused their activities on a specific area of crime. Groups active in more than one area of crime committed, as in the previous year, mainly property and drug-related offences.

## 2.6 Assessment

OC is a typical field of crime only revealed by law enforcement action so that the Federal Organised Crime Situation Report, which reflects detected OC, can only depict information resulting from by the activities of the law enforcement authorities.

Comparison in terms of quality of the OC situation reports published over the last few years leads to the assumption that the detected organised crime in Germany essentially remains at a constant level.

There are no great changes in the importance of the fields of crime relevant to OC. Over the last few years, drug trafficking and smuggling, property offences and crime associated with the business world have been the main fields of crime in which OC has been established in Germany.

Only marginal changes can be determined in relation to the suspects and perpetrator structures recorded. German suspects continue to be the most numerous; Turkish perpetrators continue to dominate among the foreign suspects. The significance of Polish OC groups increased slightly in 2002. The prediction that Lithuanian OC groups would establish themselves more prominently proved to be true. There is a clear reduction in the number of Yugoslav perpetrators presumably as a consequence of the political stabilisation in the Balkans.

Organised crime established in Germany is of varied nature, in particular in the form of networks and extensive ethnic families. Interconnections with public administration, the judicial system and the police involving corruption are limited to a few individual cases. The analysed OC investigations do not bring to light any structures that have an enduring negative influence on the economy and society as a whole or have systematically undermined them.

Nevertheless, from the point of view of the police, the object is to prevent OC groups from consolidating their structures in Germany. As a consequence of organised crime's impairment of free markets, for example by distorting competition and forging links between legal and illegal markets, it causes great losses to the national economy, is detrimental to the credibility of state organisations and authorities and causes citizens to lose faith in these. The threat posed by OC remains in this respect unchanged.

The decrease in the numbers of investigations and suspects does not imply a decrease in OC in Germany. The development in terms of quantity primarily depends on the priorities set by the police services which is made apparent in particular in the human resources employed and also the choice of investigations to be conducted as well as in the intensity of the police investigations.

Furthermore, the decrease in the number of cases does not imply a decrease in the importance of combating OC in Germany, nor does it mean any enduring renunciation of the necessary intense fight against OC.

In this connection, it must be additionally taken into consideration that the services in Germany working on OC are also employed to a considerable extent in combating other forms of crime such as gang-type groups of perpetrators. These investigations often require efforts comparable to that necessary for combating OC and likewise tie up a great number of staff.

### **3 Focal points**

#### **3.1 Money laundering and investment behaviour of OC groups in Germany**

Combating money laundering, just as confiscation of assets, must be seen in the context of the efforts to effectively combat organised crime in its entirety. On the one hand, this is intended to take away the financial basis of OC groups in order to permanently weaken them. On the other hand, financial investigations are aimed at identifying the structures of OC through the analysis of money transactions. Finally, it is intended to prevent the mixing of illegal and legal finances associated with the investment of proceeds of crime into the legal economy.

Money laundering has constituted a criminal offence since 1992 (section 261 of the German penal code). The Money Laundering Act came into force in November 1993 which has been subject to a number of amendments since then, just as the elements of the offence of money laundering. The last amendment to the money laundering act was in August 2002. There is now an obligation on the part of certain self-employed professionals (lawyers, tax consultants and estate agents) to report certain activities and reveal identities.

117 investigations involving money laundering were reported in 2002. The OC potential of the groups developing money laundering activities is on average around 46 points and is thus clearly higher than the mean of all OC groups (approx. 40 points).

37 investigations in which money laundering activities had been reported were selected for the 2002 OC structural analysis to collect information in interviews with experts. The investigations selected were connected with all fields of crime relevant to OC<sup>14</sup> and the most important ethnic groups. In addition, information from the structural analyses from 1998 to 2001 (a further 141 investigations) was also used to extend the database with regard to the *modi operandi*, the use of profits and ethnic characteristics.

It is noticeable in connection with the predicate offences of money laundering that it is in particular proceeds from drug trafficking and smuggling that are being laundered. In relation to their percentage of all OC investigations, offences associated with economic crime are slightly over-represented, property offences are in contrast proportionally underrepresented.

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<sup>14</sup> with the exception of the fields of arms and environmental crime which were not taken into consideration due to the small amount of data available



German and Turkish dominated OC groups play a prominent role in cases of money laundering. A multitude of various other nationalities are responsible for the other money laundering activities.

A large number of different methods came to light in the money laundering investigations under examination:

- Frequent deposits and withdrawals of cash
- Use of payment cards that are not linked to a bank account
- Frequent, in particular international, money transfers
- Cross-border transports of cash
- Investment in the form of securities and life insurance policies
- Use of cash transfer systems that are not connected to a bank account
- Currency exchange transactions at banks and bureaux de change
- Issuing of fictitious invoices
- Use of crossed cheques
- Declaration of illegal revenue as donations
- Running (loss-making) businesses to provide a cover story for revenue
- Conclusion of loan and leasing contracts
- Use of bank safes
- Investment in material assets, legal companies and real estate.

In the main, simple but efficient money laundering techniques predominate (for example returning revenue from drug trafficking to the legal business cycle via the hotel and restaurant business). Nevertheless, some investigations revealed very professional *modi operandi*, some of which have come to run very smoothly over the years.

The *modi operandi* demonstrate certain differences in relation to ethnic groups. German and Italian groups seem to be characterised by professional money laundering techniques using business structures and elaborate constructions. Polish groups were described as using simpler *modi operandi*, for example giving preference to transporting cash personally.

All mechanisms and the framework of the *legal* market (for example banks, currency regulations) are decisive for money laundering. The perpetrators give preference to those institutions and methods that make it very difficult for law enforcement or supervisory authorities to reconstruct their activities and thus make it easier to cover up assets.

Above all, individual factors are decisive in the design of the money laundering methods used by the suspects. In this case, a role is played for example by origin, level of education, professional career and social environment of the suspects. Personal preferences and aims set by the suspects are of decisive importance.

Profits were not shared up equally among the members of the groups. The lion's share of the revenue went to suspects at leadership level. With this in mind, it becomes understandable that there are vast differences in the use of the income:

Suspects at the implementation level and in groups organised as gangs predominantly covered their own living expenses with relatively small illegal incomes. In some cases chronic lack of money was a motive for committing offences. In addition, money was also spent on illegal gambling and to purchase drugs for personal use. Suspects in groups with a low level of organisation gave preference to cash transactions in all areas of life. Hardly any amounts of money worth mentioning were kept in bank accounts even if they were held.

Suspects often financed an expensive to luxurious lifestyle with larger profits. This lifestyle included, for example, expensive vehicles, aircraft, yachts, and frequent travel and visits to restaurants and brothels. Even the better organised groups exhausted considerable profits to a great extent in this way.

Longer term capital investment could be observed in particular at leadership level. This group of persons focused on investing in real estate. In more than half the groups under observation, subjects invested in particular in residential properties for their own use. In some cases suspects invested their profits in securities, life insurance policies and time deposits. To this end, money was often moved abroad.

More than half of the groups examined invested money in legal companies. OC groups invested more frequently than average in hotel and restaurant businesses, the entertainment industry (discotheques, amusement arcades), vehicle workshops, vehicle trade and rental, construction businesses, real estate and financing companies and security services.

Non-German groups often invested in real estate and businesses in particular in their countries of origin.

Even if the approach to the examinations was predominantly of criminological nature, the investigations were also analysed from the point of view of penal law. Money laundering *punishable under criminal law* played a rather subordinate role in the investigations selected.

The explanation for this can be found mainly in the fact that money obtained from the offences were principally covered up or invested by members of the group who were involved in the predicate offences and thus cannot be prosecuted for money laundering. Persons suspected of having committed money laundering were very often relatives of to the main suspects. In some cases, bank staff and lawyers were aware of money laundering activities. Sometimes, these were also relatives of the suspects.

#### Assessment/Conclusion

Large profits are made by organised crime. These profits are primarily used for consumption but also for long-term investments in considerable assets in Germany and other countries. A large amount of this capital is invested in legal businesses.

Financial investigations are one of the approaches that should be seen as a basic instrument to combat organised crime. In this connection, complex, often international *modi operandi* and considerable evidence requirements demand extensive resources of specially trained staff.

### **3.2 Analysis of the links between corruption and OC**

Within the police forces themselves and in the public mind it is often assumed that there is a close link between corruption and organised crime. In contrast to such assumptions, there is only a small percentage of cases of corruption relevant to OC determined by the police and recorded as such in the Federal OC Situation Reports (2001: 2.9%; 2002: 2.3%). In this respect, it is not possible to establish, at least empirically, such a close interconnection.

With this in mind, special analysis was to reveal, among other things, well-founded statements on the extent of the interconnection between corruption and OC.

#### Definitions

##### *Corruption*

The term "corruption" has not been clearly defined. It comprises both actions subject to punishment and practices which are ethically and morally reprehensible. In the widest sense, corruption comprises the disguised misuse of an official or similar position in the business world or a political mandate, at a person's own initiative or at the initiative of another party, in order to achieve a benefit for that person or a third party.

As such, the term "corruption" is not defined in penal law. It rather comprises various provisions of penal law which can be described as follows:

- Influence from outside on public officials, parliamentarians, employees in the private sector
- Mutual agreement between the above group of persons and outsiders

with the aim of obtaining a benefit to themselves or others.

In terms of penal law, corruption is understood as covering the offences in connection with official positions under sections 331-335 (accepting or offering benefits or bribes), parts of offences in connection with competition (sections 299-300) as well as the offences covered by sections 108b and 108e (bribing voters and parliamentarians) of the German penal code. When the facts of cases were assessed, the special analysis was based on the elements that constitute the above corruption offences.

##### *Exertion of influence in the sense of criterion c) of the OC definition*

Criterion c) of the OC definition is of significance within the scope of the analysis according to which "influence" is exerted on decision-making processes in the areas mentioned.

This can be demonstrated not only in the favourable taking of, or neglecting to take, actions in the interest of the offender but also in collusive behaviour. To differentiate this from legitimate forms of influencing decision-makers, it is necessary for the influencing to prove to be of reprehensible nature in its means or aims.

#### *Differentiation of the terms corruption and influencing*

As a result, corruption offences are a criminally relevant part of various forms of influencing decision-making processes in society. The threshold to reprehensible forms of influence is much lower than that for acts of corruption punishable under criminal law.

A large proportion of OC investigations involving influence reveal cases where, by their very nature, there is justified suspicion of corruption taking place.

The acts of corruption described in the following are, at the same time, also forms of influencing in the sense of criterion c) of the OC definition. For this reason, the statements on the acts of influencing determined within the scope of the special analysis also include acts of corruption relevant to penal legislation.

#### Extent of the interconnection between corruption and OC

No field of crime particularly stands out among the investigations involving corruption offences. German OC groups are clearly disproportionately represented. This can be explained by the fact that Germans are at a clear advantage to other ethnic groups in the commission of corruption offences as a consequence of being better "socially integrated" in their own country.

The proportion of OC investigations revealing "influencing politics, media, public administration, the judicial authorities and the economy" in the sense of the OC definition has been between 15 and 23% since 1992.

#### *Areas targeted for influencing*

The target areas for influencing depended on the fields of crime in which the OC groups were predominantly active.

One commonly observed aim of OC groups in the field of drug-related crime *in Germany* was to obtain information from police databases or current investigative proceedings. Apparently, contact to the national police and judicial authorities was consciously made and maintained by such OC groups in order for the suspects to be able to correspondingly react to the investigations into them on the basis of the information thus obtained and circumvent the police investigations in this way .

Supporting actions by police or customs officers *outside Germany* played an important role in the smuggling of drugs across the borders of transit countries.

OC groups predominantly committing property crime focused their interest nationally and internationally on information on wanted listings for persons and property as well as vehicle registration data. Alongside border control irregularities in transit and destination countries, forgery offences are essential components of the commission of vehicle trafficking. The risk of being discovered would be much higher without the corresponding documents or contacts at the respective borders.

OC groups who focused their activities on crimes associated with nightlife used existing contacts to resident's and alien's registration authorities in connection with offences involving facilitation of illegal immigration and trafficking in human beings. Furthermore, there were hints that police and customs officers within Germany and abroad assisted the suspects in illegally crossing the respective borders.

The most common form of influencing connected with smuggling cigarettes is bribing border police and customs officers at the borders of countries of origin and transit countries.

OC groups dominated by non-Germans commit acts of influencing predominantly in their countries of origin where they can rely on existing contacts to persons in the respective areas of influence. German OC groups can, in particular regionally, rely on existing contacts (e.g. acquaintances, relations, friends) in the corresponding positions of public life or use these persons to make the required contact to decision-makers.

#### *The extent of corruption*

In the vast majority of the OC investigations examined, the actions involving corruption were indeed more or less helpful in the commission of the other crimes by the OC groups, as a whole, however, it seems to be certain that corruption offences are only secondary offences in more than half of the OC investigations examined in more detail.

In a few investigations only, corruption offences formed the focal point or were of considerable importance. These proceedings were to investigate OC groups in the field of economic crime. Almost all investigations related to unlawful agreements during awarding of contracts, in particular in the field of public sector construction projects.

On the one hand, this led to great financial losses to local governments (through excessive charging or fictitious invoices) and on the other hand, in terms of market economics, led to a restriction in free competition and thus, in some cases, threatened the economic existence of enterprises which were practically excluded from the contract awarding.

No investigations revealed corruption linking OC groups and persons in key positions in the political system, the judicial establishment, the public administration, the media and/or the economy in Germany. A certain influencing of decision-makers at local/regional level took place only in a few isolated cases.

The cases of influencing taking place abroad go a lot further than that and often affect important decision-making processes which indicate, in a significant number of cases, a certain intertwining with OC even at the higher levels of the political system, the judicial authorities, the economy and public administration. The extent and the shape of the corruption or influencing that take place abroad depend very much on the respective economic situation and also very much from the various cultural attitudes.

### Conclusions

The theory that in general a close, even symbiotic interlinking between corruption and OC exists in Germany currently cannot be confirmed on the basis of the results of this special analysis.

Corruption offences do not appear to be an integrated element of OC in Germany but rather a means used more or less professionally.





# Statistical Overview

	<b>2001</b>	<b>2002</b>
<u>Number of investigations</u>	787	690
No. of the above as initial reports	389	338
No. of investigations completed	429	375
<u>Suspects</u>	15,237	13,825
No. of the above newly identified	7,844	6,864
Total number of nationalities	87	88
Percentage of German suspects	47.9%	44.4%
Percentage of non-German suspects	52.1%	55.6 %
Largest groups of non-German suspects		
• Turks	8.7 %	9.4 %
• Poles	3.9%	5.6%
• Lithuanians	3.4%	3.2%
• Italians	4.0%	3.0%
• Russians	2.6%	2.7%
• Yugoslavs	4.4%	2.4%
<u>Heterogeneous offender structures</u>	80.7%	79.8%
(Co-operation between suspects of different nationalities)		
<u>Homogeneous offender structures</u>	19.3%	20.2%
<u>Armed suspects</u>	5.1%	4.4%
<u>Losses identified</u>	€ 1,166,285,189	€ 3,068,712,796
<u>Estimated profits</u>	€ 761,172,771	€ 1,467,051,013
<u>Provisionally seized assets</u>	€ 101,142,268	€ 30,782,858

	<b>2001</b>	<b>2002</b>
<u>Commission of crimes at int. level</u>	79.2%	82.4%
<u>Criterion a) of the OC definition</u> (Use of commercial or business-like structures)	86.3%	87.2%
<u>Criterion b) of the OC definition</u> (Use of violence or other means of intimidation)	48.2%	49.9%
<u>Criterion c) of the OC definition</u> (Exertion of influence on politics, the media, public administration, judicial authorities or the business sector)	18.6%	19.2%
<u>Fields of crime</u>		
• Drug trafficking/smuggling	35.2%	36.8%
• Property crime	13.6%	13.2%
• Crime associated with the business world	11.2%	11.6%
• Crime associated with the business world	11.3%	9.4%
• Tax and customs offences	9.5%	8.7%
• Facilitation of illegal immigration	7.0%	8.6%
• Violent crime	4.7%	5.1%
• Counterfeiting/forgery	3.9%	4.2%
• Arms trafficking/smuggling	1.1%	0.4%
• Environmental crime	0.4%	0.3%

	<b>2001</b>	<b>2002</b>
<u>Investigations including:</u>		
Acts of money laundering acc. to Sec. 261 of the German Penal Code	139	117
Witness protection measures	68	57
Confiscation of assets	242	183
<u>Cases handled by:</u>		
OC investigative teams, joint police/customs investigative groups, special investigation teams	66.1%	68.7%
Specialised OC public prosecutor's offices or persons in charge of special OC departments	66.7%	68.4%
<u>Average length of the investigations</u>	15.9 months	16.5 months