

Organised Crime and the State in Spain

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The candidate confirms that the work submitted is her own and that appropriate credit has been given where reference has been made to the work of others.

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Organised Crime and the State in Spain

Abstract

This thesis seeks to explore the reasons why a particular form of 'organised crime', namely illicit enterprise, exists and flourishes in Spain. In explaining this phenomenon thus far, journalists, academics and police (and other) officials tend to point to the fact that the country possesses a number of characteristics, or a set of competitive advantages, that make Spain simply ideal for this kind of criminal activity. Predominantly, these include factors such as the location and geography of Spain, the nature of Spain's industry and economy and the presence of immigrant communities. These factors will be explored in the thesis and their usefulness as explanatory factors of illicit enterprise will be assessed. The thesis will argue that, although the conventional explanations often used to account for this phenomenon have some validity, they are essentially too superficial, and thus insufficient, to provide a comprehensive understanding. Stimulated by the wider literature on organised crime, the thesis therefore hypothesises that other key explanations relating to certain weaknesses and vulnerabilities in the political, judicial, legal, and law enforcement spheres, which are open to exploitation by criminal groups, are essential in understanding Spain's particular susceptibility to illicit enterprise. The hypothesis will be tested by exploring and analysing factors such as corruption and a lack of transparency and accountability in the political, and other, realms; a lack of political and public attention given to the problem of illicit enterprise; some legal and judicial deficiencies; and some apparent complexities surrounding law enforcement and policing structures. The thesis contends that the essential explanation for Spain's particular susceptibility to illicit enterprise lies in these vulnerabilities.

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Abbreviations

AEGD	<i>Association d'Etudes Géopolitiques des Drogues</i> (Center for Geopolitical Drug Studies)
CGPJ	<i>Consejo General del Poder Judicial</i> (General Council of Judicial Power)
CICO	<i>Centro de Inteligencia contra el Crimen Organizado</i> (Intelligence Centre against Organised Crime)
CIG	<i>Confederación Intersindical Galega</i> (Galician Intersindical Confederation)
CPI	Corruption Perceptions Index
CSD	Center for the Study of Democracy
ECO	<i>Equipo Contra el Crimen Organizado</i> (Team Against Organised Crime)
EFE	a Spanish national news agency
EIU	Economist Intelligence Unit
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
ETA	<i>Euzkadi ta Askatasuna</i> (Basque Homeland and Freedom)
EU	European Union
EURES	the European Job Mobility Portal
FATF	Financial Action Task Force
GDP	gross domestic product
GIL	<i>Grupo Independiente Liberal</i> (Independent Liberal Party)
GRECO	<i>Grupos de Respuesta Especial para el Crimen Organizado</i> (Special Response Groups for Organised Crime)
IMF	International Monetary Fund
INE	<i>Instituto Nacional de Estadística</i> (National Institute of Statistics)
IU	<i>Izquierda Unida</i> (United Left)
IU-LV-CA	<i>Izquierda Unida-Los Verdes-Convocatoria por Andalucía</i> (United Left-Green Party-Call for Andalusia)
MDMA	methylenedioxymethamphetamine (or 'ecstasy')
MEP	Member of European Parliament
MIR	<i>Ministerio del Interior</i> (Spain's Ministry of the Interior)
OECD	Organisation for Economic Co-operation and Development
OGD	<i>Observatoire Géopolitique des Drogues</i> (Geopolitical Drugs Watch)
PP	<i>Partido Popular</i> (People's Party)
PRI	<i>Partido Revolucionario Institucional</i> (Institutional Revolutionary Party) (Mexico)
PSOE	<i>Partido Socialista Obrero Español</i> (Spanish Socialist Workers' Party)
RICO	Racketeer Influenced and Corrupt Organizations legislation

SEPBLAC	<i>Servicio Ejecutivo de la Comisión de Prevención de Blanqueo de Capitales e Infracciones Monetarias</i> (Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences)
SCAP	Supreme Commander of the Allied Powers
SIVE	<i>Sistema Integral de Vigilancia Exterior</i> (Integrated System of External Surveillance)
SOPDE	<i>Sociedad de Planificación y Desarrollo</i> (the Málaga Provincial Delegation's Planning and Development Society)
SVA	<i>Servicio de Vigilancia Aduanera</i> (Customs Surveillance Service)
TOC	Transnational Organised Crime
TSJA	<i>Tribunal Superior de Justicia de Andalucía</i> (Supreme Court of Justice of Andalucía)
UDEF	<i>Unidad de Delincuencia Económica y Fiscal</i> (Unit of Economic and Fiscal Crime)
UDYCO	<i>Unidad de Drogas y Crimen Organizado</i> (Drugs and Organised Crime Unit)
UK	United Kingdom
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
UNWTO	United Nations World Tourism Organization
US	United States
USA	United States of America

Chapter 1

Organised Crime and the State in Spain: An Introduction

This thesis seeks to explain why 'organised crime' (or rather, a particular form of 'organised crime', namely 'illicit enterprise') exists and flourishes in Spain. The thesis argues that, although the conventional explanations often used to account for this phenomenon have some validity, they are essentially too superficial, and thus insufficient, to provide a comprehensive understanding. Thus, if we are to fully understand the factors that facilitate illicit enterprise in Spain, we must look beyond the standard explanations and examine the intrinsic weaknesses and vulnerabilities of the political, judicial, legal, and law enforcement spheres, which are exploited by criminal groups. The thesis contends that the key explanation for Spain's particular susceptibility to illicit enterprise lies in these vulnerabilities.

The purpose of this introductory chapter, then, is to consider some preliminary issues and provide a background and context to the research project undertaken. Initially, the chapter will set out the justification for the thesis and explain why the topic chosen is, indeed, one worth researching, before discussing the objectives of the research and introducing the hypothesis that will be tested in later chapters. Subsequently, some issues relating to methodology, research design and data collection will be considered in some detail and, finally, the structure of the thesis will be outlined.

Background and justification for the thesis

Why organised crime?

For a long time, organised crime has been regarded as a major threat to societies, economies and political systems all over the world because, by its very nature, it promotes violence and intimidation, challenges basic norms and values, distorts civil society and perverts legal systems, financial institutions and legitimate businesses. Additionally, through the corruption of public officials and political systems, it can potentially threaten democratic values, state control and national stability. Moreover, as societies, economies and politics have evolved, along with the increasing ease and speed in travel and telecommunications; the growth in technology, international trade and global financial networks; and the change in socio-political environments, so too has organised crime¹. Over the last few decades, organised crime has taken on new characteristics, crossed

¹ See, for example, Phil Williams and Ernesto U. Savona (eds.), *The United Nations and Transnational Organized Crime*, London and Portland, Oregon, Frank Cass & Co. Ltd., 1996.

international borders and become an increasingly transnational and global phenomenon. As such, organised crime is perceived as a growing security threat and is therefore, arguably, an important topic to research. Certainly, from a policy perspective, if those engaged in controlling and fighting 'organised crime' are to have any real success, and if resources are to be allocated appropriately and efficiently, there is a need to understand exactly what it is, what it entails and why it occurs. Academic research can play a role in developing this understanding.

Why Spain?

Although there exists a rapidly growing body of literature discussing the phenomenon of organised crime, both generally, and more specifically in relation to particular 'mafias' and/or in relation to the problem and existence of organised crime in certain states, there is a distinct lack of literature and empirical work in English language publications on the phenomenon as it exists in Spain. Currently, the English language literature on organised crime in Spain largely comprises of a few specific chapters in edited books², brief mentions in general books on either Spain or organised crime³, and a number of short media reports published in newspapers such as *The Guardian*. The situation, academically, seems little better in Spain. Indeed, although there are a few journalistic publications⁴, as Gómez-Céspedes and Stangeland lament:

[...] academic research into organised crime is virtually non-existent. [...] Unfortunately, we have found no more than two empirical studies about organised crime in Spain.⁵

Furthermore, they stress that:

[...] there is a vital need for empirical research into the extent of serious and organised crime in the country [...].⁶

² Predominantly, Alejandra Gómez-Céspedes and Per Stangeland, 'Spain: The Flourishing Illegal Drug Haven in Europe' in Cyrille Fijnaut and Letizia Paoli (eds.), *Organised Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*, Dordrecht, Springer, 2004, pp. 387-412 and Carlos Resa-Nestares, 'Transnational Organized Crime in Spain: Structural Factors Explaining its Penetration' in Emilio C. Viano (ed.), *Global Organized Crime and International Security*, Aldershot, Ashgate Publishing Ltd., 1999, pp. 46-62.

³ See, for example, José M. Magone, *Contemporary Spanish Politics*, London and New York, Routledge, 2004 and Ernesto U. Savona, *European Money Trails*, Amsterdam, Harwood Academic Publishers, 1999.

⁴ See, for example, Luis Gómez, *España Connection: La implacable expansión del crimen organizado en España*, Barcelona, RBA Libros SA, 2005 and Albert Castellón, *Libro negro de las mafias: Mafias internacionales y blanqueo de dinero en España*, 2nd ed., Córdoba, Arcopress SL, 2006.

⁵ See Gómez-Céspedes and Stangeland, *op. cit.*, p. 395. The two studies to which they refer are: B. Mapelli Caffarena, M. González Cano and T. Aguado Correa, *Estudios sobre delincuencia organizada. Medios, instrumentos y estrategias de la investigación policial*, Sevilla, Mergablum, 2001 and José Luis Díez Ripollés, Ana María Prieto del Pino, Alejandra Gómez-Céspedes, Per Stangeland and Diego José Vera Jurado (eds.), *Prácticas ilícitas en la actividad urbanística: Un estudio de la Costa del Sol*, Valencia, Tirant lo Blanch and Instituto Andaluz interuniversitario de Criminología, 2004.

⁶ Gómez-Céspedes and Stangeland, *op. cit.*, p. 409.

In this sense, therefore, there is an important gap in the academic literature, which this thesis aims to play a part in filling.

Although Spain is not a country that we immediately associate with organised crime in any of its forms or manifestations (rather, we usually think of Italy, the USA, Russia or Colombia, for example), some preliminary research revealed that the criminal activities that we typically associate with 'organised crime', and the groups engaged in these activities, appear to be quite prolific in Spain. A brief mention of a few statistics and examples here will serve to give us some idea of the problem. For example, it was reported that, in 2003, Spanish police investigated 542 'organised crime' groups, containing a total of more than 9,000 members⁷ and, in 2004, Spanish police made 323 arrests in connection with 'organised crime'⁸. In 2005, there were, in total, 471 known 'organised crime' groups active in Spain, each of which was made up of at least three members and the majority of them (174 groups) constituted between six and 12 members⁹ and, in 2006, there were 482 'organised crime' groups detected in Spain, with an average membership of 23.8 individuals per group¹⁰. In 2007 and 2008, 564 and 538 groups respectively were detected¹¹, and the latest figures show that, in 2009, Spanish police investigated 616 groups in connection with activities related to 'organised crime'¹².

The last few years have also witnessed some headline-grabbing seizures and arrests in Spain that were related to 'organised crime'. For example, *Operación Ballena Blanca* (Operation 'White Whale'), that came to fruition in March 2005, was described at the time as the Spanish Interior Ministry's 'biggest investigation'¹³ (more than 50 people were arrested, suspected of laundering millions of euros for gangs involved in murder, drug trafficking, arms dealing and prostitution; more than 250 properties were also seized; and

⁷ See 'Organised crime common in Barcelona and Madrid', *barcelonareporter.com*, 08/09/05, http://www.barcelonareporter.com/index.php?/comments/organised_crime_common_in_barcelona_and_madrid/, [accessed 29/09/05], citing *El País*.

⁸ See Leslie Crawford, 'Hot money pays for boom on Spain's Costa del Crime', *Financial Times*, 23/03/05.

⁹ *España. Delincuencia Organizada / 2005*, internal annual report on organised crime in Spain produced by the Spanish police forces (unpublished). I am grateful to members of the Spanish Judicial Police for allowing me access to this report, which is not generally publicly available.

¹⁰ See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I)*, Madrid, 2007, pp. 697-698,

http://www.fiscal.es/csblob/V1_CAP3.pdf?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1109248280982&ssbinary=true [accessed 07/09/08].

¹¹ See Gobierno de España (Ministerio del Interior (MIR)), *Comparencias lucha contra el crimen organizado en España*, Madrid, MIR, 02/11/10, http://www.interior.gob.es/DGRIS/Balances/Balance_2010/pdf/bal_crimen_organizado_noviembre_presentacion.pdf [accessed 30/04/11].

¹² *Ibid.*

¹³ 'Spain "cracks \$300m money racket"', *BBC News*, 13/03/05, <http://www.bbc.co.uk/1/hi/world/europe/4344447.stm> [accessed 14/03/05].

bank deposits totalling some 62 million euros were frozen¹⁴). Another example was *Operación Avispa* (Operation 'Wasp') (June 2005), which was described as 'the largest swoop in history on organised crime in Europe', as 28 so-called 'mafia bosses' from former Soviet republics were arrested for laundering money derived from illegal activities in their home countries, as well as bankruptcy fraud and having ties to 'organised crime'¹⁵. Additionally, 800 bank accounts were frozen, 42 luxury cars were confiscated, and 400,000 euros in cash, cheques, weapons, jewellery and property were seized¹⁶. Examples from 2006 include the arrest of around 100 people for their alleged involvement in an illegal prostitution ring involving Russian women working in Spain (in April), and the arrests of 83 people, in June (66 of them in Spain, throughout seven provinces), as part of *Operación Armagedón* (Operation 'Armageddon'), for their involvement in a criminal organisation dedicated to the counterfeiting of credit cards and robberies on housing and industrial estates¹⁷. Indeed, many more examples could be given, and all this is thought to be just the 'tip of the iceberg': the figures and examples discussed above, for example, merely involve the groups that the Spanish authorities claim to know about and have been investigating.

Moreover, the national composition of the criminal groups active in Spain is wide, varied and often mixed. Of the 471 groups that the Spanish police were investigating in 2005, for example, 66 (14 per cent) were made up entirely of Spaniards; 120 (25.5 per cent) were composed entirely of foreigners; and 285 (60.5 per cent) of the groups were mixed, that is to say that these groups were composed of both Spaniards and individuals originating from other countries¹⁸. In Spain, therefore, although there are a number of active indigenous Spanish groups and criminals, the 'organised crime' scene is very clearly transnational in nature. In fact, nationals of as many as 99 different countries participated in the known 471 'organised crime' groups in 2005¹⁹. According to police data, these groups are mainly active along the Mediterranean coast, in the region of Galicia and in Madrid, but no part of the Spanish territory is totally free of 'organised' criminal activity²⁰.

The criminal activities undertaken by these groups are wide ranging, although drug trafficking appears to be one of the most significant activities. Other activities include

¹⁴ See, for example, Ministerio del Interior (MIR) (Dirección General de Relaciones Informativas y Sociales), 'Balance contra la delincuencia organizada en 2005: Las FCSE detuvieron a 3.925 personas y desmantelaron 290 grupos vinculados con el crimen organizado en 2005', *Nota de prensa*, Madrid, MIR, 13/02/06, http://www.mir.es/DGRIS/Notas_Prensa/Ministerio_Interior/2006/np021302.htm [accessed 04/08/08]. This operation will be discussed in more detail in Chapter 2.

¹⁵ See Dale Fuchs, 'Police swoop on Spain's costa crime kings', *The Guardian*, 21/06/05, p. 10.

¹⁶ *Ibid.*

¹⁷ See, for example Agencia EFE SA, 'Grandes operaciones contra el crimen organizado en España (2000-2006). Sucesos Nacional', *EFEDATA database*, accessed through <http://efedata.efc.es/> [accessed 19/09/06].

¹⁸ *España. Delincuencia Organizada / 2005, op. cit.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

arms and explosives trafficking, organised prostitution, illegal gambling, organised business robbery, vehicle theft and smuggling, people trafficking, counterfeiting and fraud, extortion, kidnapping, intellectual property crimes, the trafficking of works of art and jewellery and extensive money laundering²¹ (which, as we will see later in this thesis, also leads to 'organised crime' infiltrating legal industries such as construction and the tourist/hospitality sector). As we will also see later in this thesis, in addition to the illegal activities listed here, and in order to carry out and ensure the success of their respective criminal activities, criminal groups in Spain also use violence and intimidation, and they corrupt politicians, law enforcement officers, judges, and so on. It is no wonder, then, that José Antonio Alonso, the former Spanish Interior Minister, has been quoted as saying that 'organised crime' is 'as big a threat to Spanish security as Islamist terrorism'²².

The objectives of the research, the research question and the hypothesis

The purpose of this thesis, then, is to make sense of all this; to understand why criminal activities of this nature, and the groups that engage in them, appear to thrive in Spain, a developed and democratic nation that has been a member of the EU since 1986. Some logical questions thus arise: Why is Spain attractive to criminal groups? How and why are the groups active in Spain able to successfully carry out their businesses there? The predominant research question underpinning this thesis then is: what is it about Spain that facilitates 'organised crime' or, more appropriately, its particular form of 'organised crime': illicit enterprise?

For many people (journalists, academics, police, and other officials), these questions can be answered very easily: Spain has a number of characteristics or competitive advantages that just make it simply ideal for 'organised' criminal activity. Predominantly, these include the location and/or geographical characteristics of Spain itself, the nature of Spain's industry and economy, and the presence of a number of immigrant communities in the country. The thesis will show that there is some merit to these arguments: the oft-cited factors mentioned above do facilitate criminal activities in Spain and they may also attract criminal groups to the country. However, it is the contention of this thesis that these standard explanations appear too superficial to provide a comprehensive understanding of why illicit enterprise flourishes in Spain – there must also be some other, rather more subtle, dynamics at play. The thesis therefore hypothesises that other key explanations are essential in understanding Spain's particular susceptibility to illicit enterprise and, further,

²¹ *Ibid.*

²² See Crawford, *op. cit.*, citing José Antonio Alonso, the former Spanish Interior Minister. Whether or not this is a widely held view amongst the Spanish authorities, however, will be addressed later in this thesis.

that these explanations can be found in the intrinsic weaknesses and vulnerabilities of the political, judicial, legal, and law enforcement spheres, which are open to exploitation by criminal groups. If this hypothesis can be supported, we will thus be able to explain and understand more fully why illicit enterprise affects, exists and flourishes in Spain, which will allow us to move away from the rather superficial and intellectually inadequate explanations which currently seem to dominate. The originality of this thesis, therefore, lies in providing important explanations which have, until now, not been addressed.

Methodology, research design and data collection

This section will outline the overall approach taken to the research conducted for this thesis and discuss and appraise the methods and sources used. In doing so, it will also present a detailed and sometimes personal account of how the research was carried out, which will serve to highlight some of the general, and also some of the more specific, difficulties in conducting research on a topic of this nature. Indeed, although any examination of 'organised crime' can prove difficult methodologically, carrying out a study on what is, essentially, an illicit and secretive phenomenon occurring in a country outside of my own meant that I personally faced a number of interrelated difficulties during the research process (for example, in terms of accessing data and being a foreigner and also, potentially, in relation to gender). Before discussing these, however, this section will begin by outlining the general approach taken in this thesis.

A case study approach

It would have been impossible to undertake in-depth research on illicit enterprise in every part of Spain (at least in any great detail). Therefore, the approach taken was to look at illicit enterprise in Spain as a whole in a general and broad sense, on the one hand, whilst, on the other, gain depth by adopting a case study approach to focus on three, very different, areas/regions of Spain (Madrid, the Costa del Sol and Galicia). It is acknowledged that the case study method has been stereotyped as a 'weak sibling among social science methods'²³. For example, it is argued that, in contrast to experimental methods, case studies lack objectivity and rigour; that the researcher is at risk of seeing only what he or she wishes to see, resulting in observer bias; and that findings in just one case

²³ Robert K. Yin, *Case Study Research: Design and Methods*, 3rd edition, Thousand Oaks, California, Sage Publications Inc., 2003, p.xiii. See also Janet Buttolph Johnson and Richard A. Joslyn, *Political Science Research Methods*, 3rd edition, Washington, Congressional Quarterly Inc., 1995, p. 143 and pp. 146-147.

can simply be due to chance²⁴. However, in response, it could also be argued that the potential for bias is not limited to the case study method and bias can be reduced and regulated through the triangulation of data, for example. Moreover, a case study approach provides a particularly appropriate research design for a study of this type. As Yin summarises:

In general, case studies are the preferred strategy [...] when the investigator has little control over events, and when the focus is on a contemporary phenomenon within some real-life context.²⁵

And:

[...] when the relevant behaviors cannot be manipulated.²⁶

Clearly, these are all relevant factors in this study. Furthermore, a case study approach permits the use of a number of data collection methods²⁷ and allows particular issues to be examined with colour and depth. Throughout the thesis, relevant issues relating to Spain as a whole will be included and discussed, but the bulk of the evidence and many of the examples that will be presented relate to the regions of Madrid, Galicia and the Costa del Sol. This is because the examples extracted from these cases illustrate particularly well the major issues and themes discussed in this thesis.

The choice to use the cases of Madrid, Galicia and the Costa del Sol as a foundation for detailed research was based on the findings of some preliminary research, which revealed that these areas were amongst those most associated with the illicit enterprise affecting Spain. This fact was also confirmed in many of the interviews conducted during the fieldwork for this research and is further supported by a police report of 2005 which, as noted above, identified that (although no part of Spain is totally free of criminal activity) criminal groups are mainly active along the Mediterranean coast, in the region of Galicia and in Madrid²⁸. Other regions along the Mediterranean coast could have been studied as alternative or additional cases but they have not been chosen here because they possess characteristics that are similar to the Costa del Sol. For example, illicit enterprise and criminal groups are also known to flourish in the Levante region²⁹, but this

²⁴ See Harry Eckstein, 'Case Study and Theory in Political Science' in Fred I. Greenstein and Nelson W. Polsby (eds.), *Handbook of Political Science Volume 7: Strategies of Inquiry*, Reading, Massachusetts, Addison-Wesley Publishing Company, 1975, p. 124.

²⁵ Yin, *op. cit.*, p. 1.

²⁶ *Ibid.*, p. 7.

²⁷ See, for example, Frances Heidensohn, 'International comparative research in criminology' in Roy D. King and Emma Wincup (eds.), *Doing Research on Crime and Justice*, 2nd edition, Oxford, Oxford University Press, 2008, p. 209.

²⁸ *España. Delincuencia Organizada / 2005*, *op. cit.*.

²⁹ *Ibid.*

area, being situated on the Mediterranean coast and also attracting a large number of tourists, is characteristically similar to the Costa del Sol.

The case study regions:

Madrid

The contents of the thesis relating to Madrid concern not just the city of Madrid, but also the Comunidad de Madrid (Community of Madrid), which also constitutes one of the 17 autonomous communities of Spain. This autonomous community contains only one province and thus the Community is conterminous with the province of Madrid³⁰. Situated right in the centre of the Spanish mainland, the city of Madrid is the capital of Spain, the capital of the autonomous community, and the capital of the province of Madrid³¹.

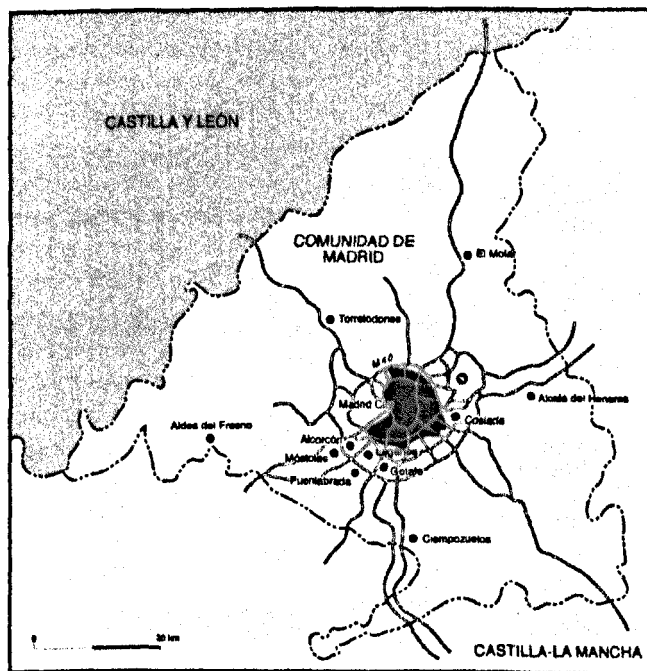


Figure 1 – Map of Madrid

Despite the fact that some of the professionals interviewed during the course of this research claimed that criminal activity in Madrid was not as noticeable as in other regions (because criminal activity there is ‘diluted’³² and not so ‘visible’³³), it would, nevertheless, appear that illicit enterprise and criminal activity in the Madrid region is particularly prevalent and widespread. In fact, according to police data, and in relation to the number of criminal groups active there, in 2005, the region of Madrid had the highest

³⁰ See, for example, ‘Spain Features: Regions of Spain. Madrid: the autonomous community’, *typicallyspanish.com*, http://www.typicallyspanish.com/news/publish/article_13401.shtml [accessed 13/02/09].

³¹ See, for example, *ibid.*

³² Interview P2.

³³ Interview P1.

incidence of 'organised crime' in the whole of the Spanish territory³⁴. Despite the fact that the 162 groups identified by the police in that year appeared to reflect a decrease in the number of known groups active in this region, this data showed that, by some margin, there were still more criminal groups active in the province of Madrid, at that time, than in any other region of Spain³⁵. Certainly, since the formulation of the police figures discussed above, a high incidence of criminal activity in Madrid seems to have prevailed, or at least may have become more noticeable. Indeed, relatively recently, following a spate of killings in the capital (which will be discussed in the next chapter), it was reported that Francisco Granados, the *consejero de Presidencia, Justicia e Interior* (Presidency, Justice and Home Affairs councillor) in Madrid's regional government, claimed that 'organised crime has taken over Madrid'³⁶, and Alfredo Pérez Rubalcaba, Spain's Interior Minister, said that he had given instructions to Antonio Camacho, the Secretary of State for Security, to ensure that the police in Madrid place 'organised crime' at 'the top of their priorities'³⁷.

It would appear that a wide variety of groups, originating from a range of different countries, are criminally active in Madrid and they engage in a whole host of different illicit enterprises there. In addition to some domestic Spanish groups and criminals³⁸ (which include Gypsy gangs³⁹), there are also a number of transnational groups and foreign criminals⁴⁰. The interview and questionnaire sources, for example, often discussed the

³⁴ *España. Delincuencia Organizada / 2005, op. cit.*. Here, Spanish provinces are placed into categories in terms of 'organised crime' activity. The categories are: high; medium/average; low; scarce/limited incidence; and irrelevant. Madrid was placed at the top of the 'high' category. The respondent of questionnaire QB also identified Madrid (along with the Costa del Sol) as being the region where organised crime was 'most common' in Spain. A similar point was also raised during interviews F1 and P15.

³⁵ *España. Delincuencia Organizada / 2005, op. cit.*

³⁶ See, for example, EFE, 'Granados: "El crimen organizado se ha adueñado de Madrid"', *elpais.com*, 14/01/09,

http://www.elpais.com/articulo/madrid/Granados/crimen/organizado/ha/adueñado/Madrid/elpepispma/20090114elpmad_1/Tes [accessed 19/01/09], quoting Francisco Granados, the *consejero de Presidencia, Justicia e Interior* (councillor of Presidency, Justice and Home Affairs) in Madrid's regional government (my translation).

³⁷ See, for example, *ibid.* and Agencias, 'El crimen organizado, primera prioridad de la Policía en Madrid', *elpais.com*, 13/01/09,

http://www.elpais.com/articulo/espana/crimen/organizado/primeria/prioridad/Policia/Madrid/elpepuesp/20090113elpepunac_11/Tes [accessed 19/01/09], quoting Alfredo Pérez Rubalcaba, Spain's Interior Minister (my translation).

³⁸ Interview P2 and questionnaire QD.

³⁹ Observatoire Géopolitique des Drogues (OGD), 'Spain: Drug Gateway to Europe', *The World Geopolitics of Drugs 1998/1999 Annual Report: IV. Europe*, April 2000, p. 94, http://www.ogd.org/2000/en/ogd99_4en.pdf [accessed 24/07/02].

⁴⁰ There are also a number of rival gangs present in Madrid, which are often involved in violence and murder. The most notorious gangs of this kind, whose members are predominantly young people, include the 'Latin Kings' and the 'Netas'. Rather than constituting the type of criminal group with which this thesis is concerned, however, these gangs are, perhaps, more accurately described as street gangs. For a typical press report concerning the activities of these gangs see, for example, María Montes, 'Los acusados de matar a un "latín" niegan ser "netas"', *El Mundo: M2*, 15/11/06, p. 7. On the 'Latin Kings' generally, see, for example, Antonio Jiménez Barca, "'Yo soy un 'latin king'", *El País: Domingo*, 10/07/05, p. 11.

presence of South American and Eastern European groups⁴¹ in the region, and specific mention was made of groups and criminals from Colombia⁴², Ecuador⁴³, Poland⁴⁴, Bulgaria⁴⁵, the former Yugoslavia⁴⁶, Romania⁴⁷ and Albania-Kosovo⁴⁸. Additionally, members of groups originating from Turkey⁴⁹, Morocco⁵⁰, Algeria⁵¹ and China⁵² appear to be active in Madrid and, recently, some criminals, linked to Italian mafia groups, have been arrested in the region⁵³. However, although these foreign groups may live in Madrid and use the region as their base⁵⁴, some claim that their activities are not limited to the capital and its surroundings, as they 'move around'⁵⁵ and also work outside of the region.

The Costa del Sol

Situated in the south of Spain, on the Mediterranean coast, the Costa del Sol (literally 'Coast of the Sun') constitutes, approximately, a 161-kilometre stretch of coastline⁵⁶, extending roughly from Nerja (50 kilometres east of the city of Málaga) to Estepona or Manilva (85 kilometres and 97 kilometres respectively west of the city of Málaga)⁵⁷. The holiday resorts and municipalities that make up the Costa del Sol are located predominantly in the province of Málaga, which is one of the provinces that

⁴¹ Groups from Eastern Europe generally were mentioned in interviews P1, P2, J6 and P16.

⁴² Interviews P1, J1, P2 and P9.

⁴³ Interviews P2 and P8.

⁴⁴ Interviews P2 and J4.

⁴⁵ Interviews P2 and P16.

⁴⁶ Interviews J1, P2 and J6.

⁴⁷ Interviews J1, J4, J6 and P16.

⁴⁸ Interviews J4 and J6.

⁴⁹ Interview P1 and questionnaire QD. See also C. Pérez, 'Cae el "híper" de la droga en La Cañada', *La Razón*, 25/06/08, p. 44.

⁵⁰ Questionnaire QD.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ For example, in March 2002, Felice Bonetti, a leader of a Genovese *Camorra* clan, was arrested in Madrid.

See 'El refugio de la Mafia en la costa mediterránea', *elpais.com*, 11/08/08, http://www.elpais.com/articulo/espana/refugio/Mafia/costa/mediterranea/elpepinac/20080811elpepinac_9/Tes [accessed 11/08/08]. Also, in July 2006, police detained seven 'members' of the Neapolitan *Camorra* (five Italians and two French people) in Leganés. They were accused of sending cocaine from Spain to Italy. See 'Detenidos en Leganés siete miembros de la Camorra', *aDn (Madrid)*, 19/07/06, p. 4.

⁵⁴ Interviews P1, P6 and J4. The professional interviewed in interview P1, for example, discussed how Colombian and Turkish groups, and so on, have their structures in Madrid, and the professional interviewed in interview P6 stated that foreign groups are based in Madrid, which was their 'point of arrival'.

⁵⁵ Interview C2. A similar point was also raised during interview J4.

⁵⁶ Costa del Sol Tourist Board and Convention Bureau, 'Population, size and climate', <http://www.visitcostadelisol.com/content/view/full/345/149/>, [accessed 26/06/08]. Note, however, that other sources use the term to refer to a 300 kilometre stretch of coastline stretching from Gibraltar in the west to La Herradura in the east (see 'Costa del Sol', *AbsoluteAxarquía.com*, <http://www.absoluteaxarquia.com/areas/costadelisol.html> [accessed 26/06/08]) or, for example, to a coastline of just over 150 kilometres (see 'Costa del Sol - Home', *andalucia.com*, http://www.andalucia.com/costa_del_sol/home.htm [accessed 26/06/08]).

⁵⁷ Costa del Sol Tourist Board and Convention Bureau, 'Population, size and climate', *op. cit.*

constitute the autonomous community of Andalucía, but the Costa del Sol also extends without established limits into the provinces of Granada and Cádiz at both ends⁵⁸.

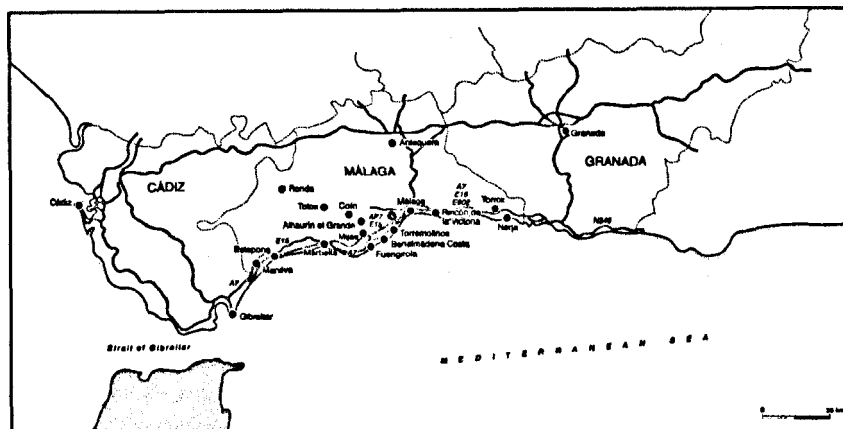


Figure 2 – Map of the Costa del Sol

Following Madrid in the police source for 2005, Málaga province ranked as the second highest activity zone for ‘organised crime’ groups in the whole of Spain, with 109 known groups⁵⁹. Indeed, Madrid and Málaga were the only provinces identified in this source as having a number of groups in excess of 100, although six other provinces were also identified as having a ‘high’ incidence of ‘organised crime’⁶⁰. These were: Barcelona and Alicante, each with 94 groups; Valencia, with 76 groups; Murcia, with 58 groups; Sevilla, with 42 groups; and Almería with 40 groups⁶¹ (notably, these are all regions located along, or close to, the Mediterranean coast). In relation to the wider Costa del Sol region, Málaga’s neighbouring provinces of Cádiz and Granada were classified as ‘medium/average’ zones of activity⁶². Although data given in the annual report of Spain’s *Fiscal General del Estado* (Attorney General) shows a notable fall in the number of detainees for ‘organised crime’ offences in Málaga province in 2006 (505 detainees in 2006, compared with a total of 1,256 detainees in 2005)⁶³, it is clear that the province remained an important zone for criminal activity during 2006, and beyond. Indeed, if we consider the figures relating to the seizure of goods and money in ‘organised crime’-related cases

⁵⁸ *Ibid.*

⁵⁹ *España. Delincuencia Organizada / 2005, op. cit.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Fiscalía General del Estado, op. cit.*, p. 703. Note, however, that the February 2008 report of the political party *Izquierda Unida* (IU) stated that, in 2006, 694 people were detained in Málaga province for organised crime offences. See *Izquierda Unida-Los Verdes-Convocatoria por Andalucía (IU-LV-CA), Aproximación al Crimen Organizado y la Actividad Masfosa en la Costa del Sol, II Informe: El Crimen Organizado en la Costa del Sol*, Observatorio del Crimen Organizado de IU-LV-CA y Oficina de Comunicación de IU-LA-CA, Boletín no. 2, Febrero de 2008, p. 5, <http://iumalaga2008.org/files/II%20Informe%20Crimen%20Organizado1.pdf> [accessed 06/10/08], quoting data from the Ministry of the Interior.

throughout that year, we can appreciate the scale and importance of criminal activity in this region. According to data provided by the National Police, in this province in 2006, 2,704,354 euros were seized and goods to the value of 2,410,245,199 euros were confiscated⁶⁴. This data reflects a considerable rise in relation to the figures given for previous years (the value of goods seized in the province was 428,579,702 euros in 2005 and 50,500,000 euros in 2004⁶⁵). Moreover, in the first eight months of 2007 alone, 97 criminal groups (each made up of either six or seven members) were broken up by police in Málaga province⁶⁶ and, in his 2007 annual report, the *Fiscalía* (Public Prosecutor) of Málaga disclosed that, after a practical standstill, crimes in the province had risen by four per cent with respect to 2006⁶⁷. Notably, in the eastern Costa del Sol, throughout 2007, crimes had risen more than 13 per cent in only a year (the highest rate in Málaga), which, according to the Public Prosecutor, shows that criminal groups are now also becoming more active in the eastern zone of the region⁶⁸. Furthermore, the press reported that, as of March 2008 (and according to police sources), Málaga province was the main activity zone for 31 per cent of the organised crime groups detected in Spain as a whole⁶⁹.

Readers of the British press might be forgiven for thinking that the much of the criminal activity occurring in this part of Spain is undertaken by nationals from the United Kingdom (UK), given the British media's frequent use of 'Costa del Crime' as a common moniker for this region⁷⁰. This is largely due to the fact that many notorious UK criminals ('organised' or otherwise) have traditionally sought shelter here (especially in the period between the collapse of the old extradition treaty between Spain and the UK in 1978 and the new one being set up in 1985, which was not retroactive⁷¹). Certainly, British and UK

⁶⁴ *Fiscalía General del Estado, op. cit.*, p. 704, quoting data provided by *el Cuerpo Nacional de Policía* (Spanish National Police).

⁶⁵ *Ibid.*

⁶⁶ See Gema Martínez, 'El Gobierno admite que Málaga necesita más policías por sus características delictivas', *swr.es*, 03/10/07, <http://www.dianosur.es/20071003/malaga/gobierno-admite-malaga-necesita-20071003.html> [accessed 11/08/08]. Moreover, the political party IU stated that, up to 20/11/07, 617 persons were detained in Málaga province for organised crime offences. See IU-LV-CA, *op. cit.*, p. 5, quoting data from the Ministry of the Interior.

⁶⁷ See N. Sánchez, 'La Fiscalía avisa de que la delincuencia organizada se extiende ya a la Axarquía', *malagahoy.es*, 05/09/08, <http://www.malagahoy.es/articulo/malaga/221242/la/fiscalia/avisa/la/delincuencia/organizada/se/extiende/ya/la/axarquia.html> [accessed 07/09/08], quoting the *Fiscalía de Málaga's Memoria Anual 2007*.

⁶⁸ See *ibid.*, quoting the *Fiscalía de Málaga's Memoria Anual 2007*.

⁶⁹ See Fernando J. Pérez, 'Cuando las balas ya son paisaje', *elpais.com*, 28/09/08, http://www.elpais.com/articulo/andalucia/balas/paisaje/elpepicspand/20080928elcand_9/Tes/ [accessed 08/10/08], quoting police sources.

⁷⁰ See, for example, Chris Summers, 'Life on the "Costa del Crime"', *BBC News Online*, 11/07/02, <http://news.bbc.co.uk/1/hi/world/europe/2121868.stm> [accessed 07/07/08].

⁷¹ Interviews C2, J7 and P11. See also Giles Tremlett, 'British body count soars as the Costa killers turn up the heat', *guardian.co.uk*, 07/08/06, <http://www.guardian.co.uk/uk/2006/aug/07/spain.ukcrime> [accessed 05/08/08].

citizens do form part of the criminal make-up of the Costa del Sol⁷², however they are not the only criminals that are active in, or attracted to, this region. Indeed, press reports have claimed that the Mediterranean coast (Málaga and Barcelona, in particular) is also the main place of refuge for Italian *mafiosi*⁷³, and several leaders/members of Russian and Eastern European criminal groups have been arrested in this area⁷⁴. Additionally, a whole host of other groups, of varying nationalities, also appear to be involved in a range of criminal activities in the Costa del Sol. Indeed, data from interview, questionnaire and press sources provide abundant evidence of the above, and also indicate that groups and criminals originate from countries and regions such as France, Germany, Holland, Portugal, Nigeria, Morocco, South America and North Africa, as well as Spain itself⁷⁵.

⁷² For example, Brian Brendon Wright, a major cocaine trafficker and one of the ten most wanted criminals at the time in Britain, was detained in Marbella in 2005. See, for example, Luis Gómez, 'La ciudad donde nadie es demasiado rico', *El País*, 20/03/05, p. 21. Other examples of British criminals being detained in this area are regularly reported in the Spanish press. For example, see 'La policía detiene a dos 'narcos' británicos ocultos en Marbella y desarticula una red de tráfico de cocaína', *El País*, 09/10/05, p. 31.

⁷³ For example, Pascuale Ascione, leader of a *Camorra* group (Naples) and one of the most wanted men in Italy for, amongst other crimes, drugs and arms trafficking and attempted bribery, was detained in Fuengirola (where he lived) in December 2000. Other members of his criminal group were captured shortly afterwards. In June 2002, four members of the Muzzoni clan (Naples) were detained in Rincón de la Victoria (Málaga). One of them, Gaetano di Lorenzo, appeared on the list of most dangerous Italian criminals. Also, in July 2007, five members of the Mazzarella clan (Naples) were detained in an operation taking place in Marbella, Málaga, Fuengirola, Zaragoza and Ceuta. See 'El refugio de la Mafia en la costa mediterránea', *elpais.com*, 11/08/08,

http://www.elpais.com/articulo/espana/refugio/Mafia/costa/mediterranea/elpepunac/20080811elpepinac_9/Tes [accessed 11/08/08]. Also, Maurizio Cirppo, the leader of a drug trafficking clan from Genoa, and three of his deputies, were known to have taken refuge in Puerto Banús before moving to Barcelona, where they were detained in 2007. See Jesús García, 'Cae la cúpula de un grupo mafioso italiano refugiado en Barcelona', *El País*, 04/10/07, p. 30.

⁷⁴ For example, in the first phase of *Operación Avispa*, which took place in June 2005 and which was carried out in various places all along the Mediterranean coast (and which was hailed at the time as 'the most important' operation against international organised crime in Europe), some of the 28 people detained for crimes such as illicit association, money laundering and fraudulent bankruptcy (22 of which were leaders in the 'Russian Mafia') were settled and carrying out these activities in the Costa del Sol (particularly in Málaga, Marbella, Fuengirola, Benalmádena and Torremolinos). Also, two of the nine detainees in the second phase of this operation, which took place in November 2006, were detained in Málaga. Again, these were members of Russian and Georgian mafias and were also accused of money laundering and illicit association. See, for example, Ministerio del Interior (MIR) (Dirección General de la Policía), 'La Policía detiene a 28 "Vor z Konen" de la mafia rusa', *Nota de prensa*, Madrid, MIR, 20/06/05,

http://www.mir.es/DGRIS/Notas_Prensa/Policia/2005/np062003.htm and MIR (Dirección General de la Policía y de la Guardia Civil), 'La Policía detiene a nueve individuos que integraban la red financiera del georgiano Zakhar Kalashov', *Nota de prensa*, Madrid, MIR, 23/11/06,

http://www.mir.es/DGRIS/Notas_Prensa/Policia/2006/np112302.htm [both accessed 10/10/08].

⁷⁵ Interviews P1, P2, P4, P7, P11, P12, C1, J2, J6, J8 and questionnaires QH, QI, QJ and QK. See also, for example, 'Detenido un holandés por venta de éxtasis a gran escala', *El País*, 16/11/03, p. 28; 'España extradita a un ruso acusado de al menos cuatro asesinatos', *El País*, 07/08/05, p. 26; 'Cae una red que escondía droga en bloques de hormigón para exportarla a países europeos', *Qué Pasa*, 09/11/05, p. 2; 'La Policía desarticula 37 puntos de venta de droga', *20 minutos (Málaga)*, 10/11/05, p. 3; Raquel Ruiz, 'Desmantelan una red dedicada al tráfico de hachís oculto en frutos', *20 minutos (Málaga)*, 01/12/05, p. 4; Javier Martín-Arroyo, 'La policía desmantela en Málaga una red que blanqueó al menos 30 millones del narcotráfico', *El País*, 22/05/05, p. 28; and 'Cae una red de blanqueo de dinero que compró 132 pisos en Mijas', *ABC.es*, 07/10/05, http://www.abc.es/hemeroteca/historico-07-10-2005/abc/Ultima/cae-una-red-de-blanqueo-de-dinero-que-compro-132-pisos-en-mijas_611386513163.html [accessed 18/08/08].

Galicia

Finally, the autonomous community of Galicia, which is located in the north west of Spain, provides us with an interesting and somewhat different case.

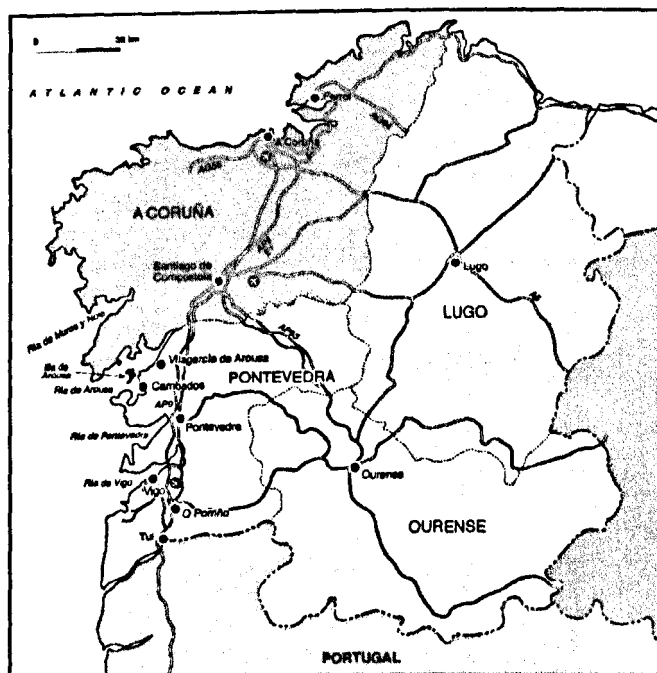


Figure 3 – Map of Galicia

Galicia borders with Portugal in the south and with the Spanish autonomous communities of Asturias and Castilla y León in the east. To the north of Galicia lies the Cantabrian Sea and, to the west, extends the Atlantic Ocean. The autonomous community is constituted of four provinces (A Coruña⁷⁶, Lugo, Ourense and Pontevedra) and, of these, it is the provinces of A Coruña and Pontevedra that experience the most criminal activity⁷⁷. The 2007 annual report of Spain's *Fiscal General del Estado* (Attorney General), for example, states that the greatest number of individuals linked to 'organised crime' groups (that were investigated in the previous year) were to be found in the territory between the AP-9 motorway and the coasts of these provinces⁷⁸. Furthermore, according to police data, in 2005, the provinces of A Coruña and Pontevedra were classified as being two of Spain's 'medium/average' zones of activity in terms of 'organised crime', with 34 and 27 groups respectively identified by the police in that year, whilst the province of Ourense, with nine groups, was placed in the category of 'scarce/limited incidence' in terms of 'organised crime' activity, and the province of Lugo, with just two groups, was classed as 'irrelevant' in

⁷⁶ In this thesis, Galician, rather than Castilian, spellings will be used where appropriate.

⁷⁷ Interview P15.

⁷⁸ *Fiscalía General del Estado, op. cit.*, p. 708. This point was also raised by the professional interviewed in interview P17.

this respect⁷⁹. At first glance, therefore, and especially in comparison with Madrid, the Costa del Sol and the other provinces along the Mediterranean coast, we might assume that criminal activity and illicit enterprise in Galicia is not as common, prevalent or extensive as in other regions of Spain. However, to make such an assumption would be erroneous. Certainly, in terms of the nature of its criminal activity, Galicia is different to the other regions discussed in this thesis, but that is not to say that illicit enterprise there is less established or entrenched, or that its presence in this region is less problematic. It is worth emphasising, therefore, that most of the cocaine destined for Europe enters the continent through the coast of this region⁸⁰, and that Galicia has been described as a 'smuggling paradise'⁸¹, accommodating 'the most brutal, ruthless and successful drug barons Europe has ever known'⁸².

Although the three cases discussed in this study are all affected by illicit enterprise, they are geographically and characteristically diverse. Most obviously, the three regions are located in different parts of the Spanish mainland and Galicia and the Costa del Sol are coastal regions, whereas Madrid is not. The Costa del Sol and Madrid have high immigrant populations and experience high levels of tourism and, in terms of criminal activity, play host to a large number of foreign criminals, but the same cannot be said for Galicia. Furthermore, the three regions have all developed very differently in economic terms. These differences, in themselves, underline that the reasons given to explain 'organised crime' and illicit enterprise in Spain may not be as straightforward as the standard explanations suggest.

Methodology and data collection

In relation to the case studies and, indeed, throughout the research, several, largely qualitative, methods of data collection have been used. Some of the research is based on data collected from the documentary analysis of written records: in addition to consulting academic publications (and gathering information from professional seminars and conferences), I also collected and extensively reviewed English and Spanish newspapers throughout the whole period of the research. Additionally, reports, statistics and other

⁷⁹ *España. Delincuencia Organizada, op. cit.*. The Spanish Attorney General's annual report for 2007 also lists a number of Public Prosecutors, including those of Lugo and Ourense, who, in their annual reports, have declared that they did not detect the presence of organised crime groups in their respective territories, at least of a stable form (or the operations that have taken place in their territory are related to secondary activities, and so on). See Fiscalía General del Estado, *op. cit.*, p. 700.

⁸⁰ See Fiscal General del Estado, *op. cit.*, p. 708. Also interview P17.

⁸¹ Interview P2 and Giles Tremlett, 'Ruthless heirs of cocaine trade tighten their grip on a smugglers' paradise', *The Guardian*, 16/02/06, p. 23.

⁸² Tony Thompson and Giles Tremlett, 'Ruthless, rich and bloody: now Europe's most vicious drug lords target Britain', *guardian.co.uk*, 12/06/05, <http://www.guardian.co.uk/news/2005/jun/12/internationalnews> [accessed 10/12/08].

official material published by the Spanish government, inter-governmental organisations, statistics institutes, think tanks and other national and international agencies, institutions and observatories have been analysed. Furthermore, and following the advice of experienced Spanish experts in the field⁸³, I also used a questionnaire, incorporating a mix of open and closed questions, to collect some additional data (see Appendices C and D). In total, 13 questionnaires were completed by experts or practitioners working in the fields of law enforcement, justice, law and journalism in all of the three case study regions⁸⁴. Finally, fieldwork in Spain was undertaken (which will be discussed in more detail below) and I conducted interviews with a number of professionals working in the field of 'organised crime' (which included some members of Spain's police forces, judges, prosecutors and customs officials, as well as lawyers, academics and journalists). In total, between November 2005 and April 2007, I conducted 36 interviews with 38 people⁸⁵ (including three interviews with professional experts in the United Kingdom (UK)). Unlike some researchers in the field of organised crime, I did not interview (or have any other kind of contact with) any criminals engaged in illicit enterprise in Spain. Some commentators have highlighted the obvious problems ('organised' criminals do not readily discuss their activities) and the (real or perceived) potential dangers associated with talking to, or directly witnessing the activities of, those engaged in 'organised crime'⁸⁶ which, it has been argued, can 'tempt the researcher into methodological laziness'⁸⁷. In my case, although it would have been particularly enlightening to hear directly why criminals found Spain an attractive base for their illicit activities, I was never in a position to be able to do so – I simply had no way of gaining contact with the criminals active in Spain (although if I had, I admit I probably would have been reluctant to do so due to the personal risks this might have entailed).

A mixture of data collection methods was used to overcome some of the general methodological problems associated with any study on 'organised crime' which, as Cressey explains, 'stem from the fact that the society of organized criminals [...] is a secret society'⁸⁸ and which, in turn, can make data difficult to gather and quantify. The use of a

⁸³ I am particularly grateful to Dr Alejandra Gómez-Céspedes for her general advice and comments on the original interview schedule during a discussion with her at the *Instituto Andaluz Interuniversitario de Criminología, Sección de Málaga*, University of Málaga, Spain, 10/11/05.

⁸⁴ Appendix A shows the date that each questionnaire was completed and the region to which it relates.

⁸⁵ Two of the interviews were conducted with two people together, at the same time. The dates and places of all the interviews are listed in Appendix A.

⁸⁶ See, for example, Patricia Rawlinson, 'Mission impossible? Researching organized crime' in Roy D. King and Emma Wincup (eds.), *Doing Research on Crime and Justice*, 2nd edition, Oxford, Oxford University Press, 2008, pp. 291-313.

⁸⁷ *Ibid.*, p. 292.

⁸⁸ Donald R. Cressey, 'Methodological Problems in the Study of Organized Crime as a Social Problem' in Nikos Passas (ed.), *Organized Crime*, Aldershot, Dartmouth Publishing Company, 1995, p. 4.

combination of methods, rather than a reliance on just one or two, it was hoped, would provide a more comprehensive and reliable bank of data from which to begin the analysis. Yet, it is acknowledged that each of the methods used has its own particular and individual set of advantages and disadvantages.

Written sources

Even using academic literature to study this topic, for example, is not without its problems. As will be emphasised in the next chapter, 'organised crime' constantly mutates and adapts to changing circumstances. This not only compounds law enforcement attempts to curtail it but it also means that the phenomenon evolves more rapidly than an academic understanding of it. As Arlacchi highlights, there is a time lag between what is happening in the criminal world and the reactions of the academic community, 'which are always several years behind the actual, changing social objects of inquiry'⁸⁹. In any case, the very lack of academic literature relating to Spain (which was noted earlier in this chapter) means that any use of this kind of data must be complemented with other sources.

Using media reports is a popular way of gathering information on 'organised crime' and its associated activities. However, as Rawlinson points out:

The quality of media reporting can vary enormously, from well researched articles and documentaries based on balanced interviews and all round impartiality, and occasionally, at the cost of a journalist's life, to hearsay and the frenzied hysteria so often found in the tabloids.⁹⁰

Indeed, newspaper reports, particularly, can be dramatic and sensationalist yet, in Spain, this is curtailed to some degree as press reports in Spanish newspapers regarding 'organised crime' usually follow a police or judicial investigation (or a Ministry of the Interior press release) because it is illegal in Spain to investigate proactively, even for journalistic purposes⁹¹. Therefore, although newspaper articles usually only impart much of the same information that can be gained from other sources, as noted above, throughout the whole period of the research, I collected and extensively reviewed English and Spanish newspapers because they were very easily accessible (and in abundance)⁹². The newspaper reports, combined with other sources, were particularly useful for gaining basic information about specific police operations. They were also useful for finding out about, and following the progress of, the many scandals (usually related to corruption) that occurred

⁸⁹ Pino Arlacchi, *Mafia Business: The Mafia Ethic and the Spirit of Capitalism*, London, Verso, 1986, p. xvii.

⁹⁰ Paddy Rawlinson, 'Understanding organized crime', in Chris Hale, Keith Hayward, Azrini Wahidin and Emma Wincup, *Criminology*, 2nd edition, Oxford, Oxford University Press, 2009, p. 334.

⁹¹ See Gómez-Céspedes and Stangeland, *op. cit.*, p. 393.

⁹² Some of the Spanish newspapers were ordered and bought from newsagents in the UK; some were collected during fieldwork trips; and some were accessed using the Internet. Newspaper archives were also accessed using the Internet or, to a lesser extent, consulted during several visits to the *Biblioteca Nacional de España* (National Library of Spain) in Madrid.

during the course of the research. Yet, in this respect, Nelken (in his discussion of white-collar crime) highlights a potential caveat in using such data. He states:

Obtaining information in this way [through newspaper reports] complicates the task of assessing the accuracy, frequency, or representativeness of the cases reported. Are 'scandals' by definition unrepresentative of normal life, or should we rather see them [...] as occasions which expose *typical* practices and mechanisms of deviance [...]?⁹³

As will be discussed later in this thesis, the scandals particularly associated with urban corruption, for example, would appear to fall into the latter category. Nevertheless, it is still clear that media reports must be used with some degree of caution.

As noted above, the thesis also uses some 'official' data (such as the reports and statistical information on 'organised crime' and criminals collected by law enforcement agencies and government ministries). As Rawlinson notes, recourse to official data is generally quite common in research on 'organised crime' (because the usual tools of criminological research such as observation, surveys, interviews, samples and questionnaires may be difficult or impossible to use)⁹⁴. However, this kind of data can also pose problems for the researcher. In some instances, for example, accessing this data can be problematic. Although some official documents are publically available (such as the Ministry of the Interior reports used in the thesis), access to other data is restricted, either due to its confidential nature or perhaps because, as Kelly points out, law enforcement personnel may be reluctant to make data available to researchers who may 'even inadvertently, betray confidences or portray law enforcement unflatteringly'⁹⁵. This latter reason may (or may not) explain why I experienced some difficulties in gaining access to the police report mentioned and used earlier in this chapter (and elsewhere in the thesis). This is an unpublished internal annual report produced by the Spanish police forces (containing data on the number of known 'organised crime' groups, their level of organisation, their nationality, the geographical base of their activities, the types of activity they are engaged in, and so on), which is not publicly available (although it is clear that some of the report's data is made accessible to the Spanish press). I made a formal written request to the Spanish government to have access to this document, but this was refused on the basis of the report's 'confidentiality'. I was also refused access to this document, for the same reason, during some of the interviews with police officials. During one interview, for example, the report was placed, temptingly, on the desk in front of me

⁹³ David Nelken, 'White-Collar Crime' in Mike Maguire, Rod Morgan and Robert Reiner (eds.), *The Oxford Handbook of Criminology*, 3rd edition, Oxford, Oxford University Press, 2002, p. 845.

⁹⁴ See Rawlinson, 'Mission impossible? Researching organized crime', *op. cit.*, pp. 291-292.

⁹⁵ Robert J. Kelly, 'Trapped in the Folds of Discourse: Theorizing About the Underworld' in Patrick J. Ryan and George E. Rush (eds.), *Understanding Organized Crime in Global Perspective: A Reader*, Thousand Oaks, California, Sage Publications, Inc., 1997, p. 40.

but the respondent categorically refused to let me look at its contents. Two other interviewees, however, did allow me to look at the report: in one instance, the respondent opened the document on his computer, turned the screen around to face me and left the room for five minutes (during which time I frantically wrote down as much information as I could); and in the second, the respondent actually printed out 12 pages of the report (of his choosing) and gave these to me.

Yet, even when data such as this is available, there may be questions as to how useful it is. Indeed, as many researchers such as Arlacchi have observed:

The organizations that systematically collect data on organized crime [...] collate this data in order to identify and prosecute professional criminals, and not in order to provide information for students of the social sciences.⁹⁶

In this thesis, the data gained from the police report (and other official sources like this) will be used primarily for two purposes. Firstly, this data will be used (with other sources) to discuss the types of 'organised crime' activity engaged in by individuals and groups in Spain. In this respect, it is particularly useful because, (as we will see in the next chapter) by identifying the types of criminal activity that flourish in Spain, we can be more precise about what we actually mean by 'organised crime' there. Secondly, data relating to the number of 'organised crime' groups active in Spain, or in a particular region, will be used to build a picture of the extent of 'organised crime' and, in terms of illustrating which regions of Spain experience greater levels of 'organised crime', for example, it is also useful. However, using official statistical data such as this also raises questions relating to the methodology used to compile it, which may, in turn, affect its reliability and validity. How is 'organised crime' being measured/classified/recorded (and does this vary between the agencies that contribute to the data)?⁹⁷ What qualifying characteristics does a group need to have to be included as an 'organised crime' group in this data? What definition of 'organised crime' is being used by the agencies collecting this data? Further, for what purposes are these data being collected and compiled?⁹⁸ The answers to these questions are not clear and, for this reason, the limitations of this kind of data are acknowledged. The statistical data relating to the number of 'organised crime' groups used in this thesis, therefore, has been used only for illustrative purposes; to illustrate the comparative levels of 'organised crime' in certain regions, for example, or to illustrate crime trends. In any

⁹⁶ Arlacchi, *op. cit.*, p. xvii. Other researchers that have also acknowledged this problem include Cressey, *op. cit.*, p. 11; Kelly, *op. cit.*, p. 40; Robert J. Kelly, 'Criminal Underworlds: Looking Down on Society From Below' in Robert J. Kelly (ed.), *Organized Crime: A Global Perspective*, Totowa, New Jersey, Rowman and Littlefield Publishers, 1986, p. 12.

⁹⁷ See, for example, Frank Gregory, 'Classify, report and measure: The UK Organised Crime Notification Scheme' in Adam Edwards and Peter Gill (eds.), *Transnational Organised Crime: Perspectives on global security*, (paperback edition), London and New York, Routledge, 2006, pp. 78-96.

⁹⁸ Is the data to be used as an indication of performance, for example?

case, this kind of information tells us little (if anything) about the causes or the facilitating factors of 'organised crime' in Spain, which is what this thesis seeks to explain. To analyse this, therefore, we have to look to other data.

The interviews and questionnaires

In this respect, some of the interview and questionnaire data have proved useful and, where appropriate, this will be used in this thesis. As noted above, interviews with professionals working in the field of 'organised crime' were undertaken as part of the research for this thesis. I felt that interviewing was both necessary (given the lack of published data relating to organised crime in Spain) and useful (in order to clarify and refine the project and provide quotations and raw data for the thesis). The interviews were open-ended in nature. After conceptualising the research problem, a very basic interview schedule was prepared, which consisted of a few open questions that would enable the respondents to reply freely and spontaneously, without being influenced by any leading questions (see Appendix B). An open approach, I felt, would also allow me to immediately follow up and explore any interesting points raised and, ultimately, would provide some rich data for the study. In reality, and as I became more experienced in conducting the interviews, although I always used the original interview schedule as a general basis, I found myself tailoring the interviews more to the particular expertise and knowledge base of the particular respondent. Notes were taken during the interviews in most cases and, as soon as possible after the interview, these notes were reviewed and added to. Later, they were reviewed again and typed up. Despite initial plans to do otherwise, in the end, only two of the interviews were tape-recorded (initially, I had planned to tape record as many interviews as I could, but it soon became clear that respondents were more cautious when I asked whether they minded being taped). Almost all of the interviewees specifically requested that their responses remained anonymous due to the confidential and sensitive nature of much of the material discussed. As a result, when interview material has been used in this thesis, it is referenced using a very basic coding that I developed subsequently⁹⁹. The questionnaires (discussed earlier in this section) were mostly used in cases where it was not possible to carry out an interview with a particular respondent for

⁹⁹ In order not to reveal the identity of the respondent, interviews are referenced using a letter and a number. The letter refers to the general field in which the respondent worked at the time of the interview. Thus, very basically: A indicates an academic; C indicates a customs officer; F indicates a prosecutor (*fiscal* in Spanish); J indicates a journalist; L indicates a lawyer; M indicates a judge (*magistrado* in Spanish); and P indicates a member of one of Spain's police forces. The subsequent number is used merely to distinguish a particular interview from those undertaken with respondents in the same professional category. Therefore, interview P5, for example, denotes the fifth interview undertaken with a member of one of Spain's police forces. I have been unable to specify the professional positions of the respondents any further than this because, in some cases, to do so would reveal the respondent's identity.

some reason or other (and the questionnaire was designed and refined, through several drafts, so that it would elicit the same kind of data as that anticipated from the interviews). The questions included in the questionnaire were developed and prepared in the context of the existing knowledge on the subject, and after I had extensively reviewed the published literature and undertaken a significant amount of preparatory research. Again, in order to protect the identity of the respondents, when material from these questionnaires has been used in this thesis, it is referenced using a very basic coding¹⁰⁰. In every instance when I contacted potential respondents and interviewees, I ensured that those approached were thoroughly informed about the nature, purpose and possible uses of my research and assured them that their potential cooperation would not lead to any undue inconvenience, distress or annoyance.

Clearly, however, as with the other kinds of data used in this thesis, there are also potential problems in using interview and questionnaire data. As will be seen in subsequent chapters, the interview and questionnaire respondents often disagreed on the issues discussed in the thesis (even when they worked in the same professional field) and thus, in assessing their responses, we have to consider the potential factors that can affect this kind of data. For instance, is a respondent being led by the structured questions that the questionnaire incorporates? Are interviewees basing their answers on their experiences, or on what they have read in newspapers, or other influences? Moreover, when respondents and interviewees have offered (or been asked) their opinion as to what facilitates 'organised crime' or illicit enterprise in Spain, for example, we have to remember that these answers merely reflect their perceptions (which is not to say that the factors they indicate as facilitators actually do facilitate this kind of criminal activity, or that factors they do not mention have no merit). Furthermore, are respondents telling the truth? It has been argued that elite respondents, for example, will use an interview to:

[...] present themselves in a good light, not be indiscreet, to convey a particular version of events, to get arguments and points of view across, to deride or displace other interpretations and points of view.¹⁰¹

It would be naïve to think that the interviews granted to me were anything other than strictly controlled; the information that I would be given during these was never going to go beyond what the respective respondents were prepared to share or select. I had no way of knowing what information had been withheld; what information I had been steered

¹⁰⁰ The questionnaires are referenced simply using two letters (for example, QA, QB, QC, and so on): the first letter, Q, merely indicates that the data source is a questionnaire and the following letter is used to distinguish that particular questionnaire from others.

¹⁰¹ Zoë Slote Morris, 'The Truth about Interviewing Elites', *Politics*, Vol. 29, No. 3, 2009, p. 211, citing S. J. Ball, 'Political Interviews and the Politics of Interviewing' in G. Walford (ed.), *Researching the Powerful in Education*, London, UCL Press, 1994, pp. 97-98.

away from; what information had been filtered. Certainly, in some interviews, the 'official line' or the standard explanations for organised crime in Spain (discussed in Chapter 3) were given and, in many cases, I was told no more than I already knew (from reading newspaper articles and other sources, for example). Furthermore, and as will be seen elsewhere in this thesis, some respondents were particularly keen to emphasise that 'organised crime' or corruption was really not a problem in Spain (or no more so than in any other state) and that the state responded well to these problems. These respondents may well have been telling the truth in so much as their answers were an accurate reflection of their opinion, or they may not have wished to portray in a poor light, or discredit, the state institutions that they worked for (which is not particularly surprising). In some cases (or at least one), respondents may also have had a more personal agenda in giving restricted answers to my questions, as the following example will illustrate. In the vast majority of cases, the respondents that I interviewed were very welcoming and keen to answer my questions (even if their answers may not have been particularly helpful for the reasons discussed above). However, in one instance, I distinctly recall feeling incredibly dejected and disappointed after a much anticipated interview with a very high ranking police officer in one of the case study regions (whom, because of his position, some of my contacts had said I simply 'must' speak to). I had pursued this particular respondent for several months (with very little initial success) yet, when I did finally manage to secure the interview, it lasted less than half an hour and the respondent (although professional and polite) was quite uncooperative, giving short and 'official' answers to the questions that I asked. It was interesting to learn six months later, therefore, that this respondent had been charged and sentenced to eighteen months in prison (and prohibited from holding office) for revealing secrets and providing cover to an Italian drug trafficker¹⁰². Although I was not expecting to personally encounter this during my research, this example underlines a more general methodological problem that can be experienced when undertaking research on the topic of 'organised crime': if criminal groups have penetrated and corrupted law enforcement agencies, data may not be available at all and, if it is, it may be unreliable¹⁰³.

In other instances, however, some respondents (and especially the journalists) were much more open to talking about the kinds of issues that I wanted to discuss and some useful, rich and interesting data was gained from both the interviews and questionnaires. Nevertheless, it is clear that some degree of caution must be exercised when using and

¹⁰² See, for example, 'Annex 3: Case Study – Spain' in Center for the Study of Democracy (CSD), *Examining the Links between Organised Crime and Corruption*, CSD/European Commission, 2010, p. 194, http://ec.europa.eu/home-affairs/doc_centre/crime/docs/study_on_links_between_organised_crime_and_corruption_en.pdf [accessed 10/04/11].

¹⁰³ See Kelly, 'Criminal Underworlds: Looking Down on Society From Below', *op. cit.*, p. 12.

analysing the data gained from the interviews and questionnaires. Indeed, as has been acknowledged, each of the individual types of data used in this thesis has its flaws and limitations. For this reason, and wherever possible therefore, attempts at triangulation have been made, and data from the interviews and questionnaires have been cross-checked and used in conjunction with data from the range of other sources outlined above.

The problems posed by the data discussed above are perhaps typical of any study on 'organised crime'. Before closing this section on methodology, however, it is worth discussing some further potential issues that may be more specific and personal to this particular piece of research. Some issues relating to gender and my status as a foreigner (and how these impacted on the research) will thus be considered and, finally, the fieldwork will be discussed.

Being a foreigner

Conducting research on an issue affecting a foreign country means that the researcher will often have to gather data from foreign sources (both primary and secondary). This presents certain challenges, not least in relation to language. Although I was already taking Spanish lessons at the time of starting the research, my ability was relatively limited. Very quickly, therefore, I dedicated myself to improving my Spanish through intense courses and private lessons so that I would be able to access as much data as possible and be in a position to carry out the research 'properly'. As Rawlinson notes:

Speaking the language of the country in which one's research is being conducted is by no means necessary, but not having certain linguistic capabilities can have an impact on the methodological approaches chosen and the data collected.¹⁰⁴

Even then, although my Spanish improved enormously, I still had problems with the nuances and interpretation of the language, and much more time and effort had to be taken over every aspect of the research. Heidensohn recognises that:

[...] where the nation, system or issue to be studied is in another language, this raises a range of distinctive issues. There is the simple matter of translating documents, or interpreting interviews or observations. More profound and more subtle are all the questions to do with deeper and hidden meanings, which only a native speaker can understand.¹⁰⁵

Certainly, in my case, reading texts, reports and newspaper articles; writing and responding to emails and letters; making and receiving telephone calls (and so on) took much longer than it would have done if I had been able to read, write and speak in English, and it caused more anxiety along the way. Furthermore, nearly all of the interviews undertaken in Spain were conducted entirely in Spanish (not least because the vast majority of the

¹⁰⁴ Rawlinson, 'Mission impossible? Researching organized crime', *op. cit.*, pp. 298-299.

¹⁰⁵ Heidensohn, *op. cit.*, p. 214.

interviewees could not (or claimed they could not) speak English). An interpreter or translator was never used. Conducting the interviews, therefore, proved to be the greatest challenge in this respect, especially when they took place in noisy bars and restaurants or even open offices, where background noise and other distractions added further difficulties. Indeed, in some situations, knowing the language is not always an advantage:

Respondents often speak very quickly in interviews with researchers who understand their language, or slip into the vernacular, an especially potent part of discourse in the criminal underworld. For the sake of fluency in the interview there is often a hesitancy to ask respondents to repeat what they have said. And unless the researcher is bilingual, linguistic faux pas are inevitable [...].¹⁰⁶

It was also difficult to listen and speak in a foreign language whilst simultaneously making notes.

Added to the problems posed by language, my position as a foreigner may also have caused difficulties in terms of gaining access to interview respondents (at least, initially). To some extent, I was dependent on 'gatekeepers' to assist with this aspect of the research and help me penetrate the institutions that I wished to study. Yet, at the outset, I had very few contacts in Spain (and, in the professional fields, none outside of academia). As a foreigner, I felt very much an 'outsider', operating in an unfamiliar cultural sphere¹⁰⁷. As discussed below, as the research progressed and I became more familiar with the field in which I was working, the number of contacts inevitably 'snowballed', but the initial difficulties in building contacts that were caused or exacerbated by my status as a foreigner (and coupled with the more general problems related to accessing data discussed above), probably resulted in me being able to carry out fewer interviews in Spain than I had hoped. However, during the interview process itself, being a foreigner may have some advantages. As Heidensohn notes, '[...] to be a foreigner may confer certain privileges, in particular a licence to naïveté'¹⁰⁸. Further:

[...] being a foreigner allows the interviewer to ask questions very bluntly, in a way that a native could not without the risk of being perceived as too inquisitive and thus, intrusive. Much leeway is given to a foreigner, always excused by non-mastery of a foreign language.¹⁰⁹

Whether this results in more information being given, however, is difficult to assess.

¹⁰⁶ Rawlinson, 'Mission impossible? Researching organized crime', *op. cit.*, p. 299.

¹⁰⁷ See Laura Piacentini, *Surviving Russian Prisons: Punishment, economy and politics in transition*, Cullompton, Willan Publishing, 2004, p. 10.

¹⁰⁸ Heidensohn, *op. cit.*, p. 215, citing D. Downes, *Contrasts in Tolerance*, Oxford, Clarendon Press, 1988, pp. 2-3.

¹⁰⁹ Emmanuèle Cladie Sabot, 'Dr Jekyll, Mr H(i)de: the contrasting face of elites at interview', *Geoforum*, Vol. 30, 1999, p. 333.

Gender issues

Mostly, during the fieldwork, I found myself entering largely a man's world¹¹⁰. Of the people that I interviewed, for example, only four were women; the majority (34 respondents) were men (and, in many cases, they were men of an older generation). As a result, I wondered how seriously I would be taken as a (relatively) young female researcher and whether the problems I had encountered as a foreigner would then be compounded by my gender. In reality, however, my gender probably worked to my advantage. Warren, for example, discusses the 'harmlessness' and 'invisibility' of women fieldworkers, which can prove beneficial in all kinds of ways¹¹¹. In other respects too, considerations of gender have been discussed in relation to ethnographic research (particularly in the comparative context), and especially in relation to 'the sexual politics of fieldwork' where:

At issue is the tradeoff between accepting sexism on the one hand and the acquisition of knowledge in the interest of furthering careers [or the research] on the other.¹¹²

Rawlinson, for example, describes how the patronising attitude to women by Russian men became personally useful to her when a mix up with verbs led to a particularly 'embarrassing slip up' in a public setting¹¹³. Piacentini, in her study of Russian prisons, recalls 'feelings of being exploited'¹¹⁴ when, for example, she was granted an interview with a (male) prison governor only after she had 'recited Russian poetry in his office in front of senior personnel'¹¹⁵. Despite initially resisting 'colluding with such gender constructions that expect women to look their best and behave in a subservient and passive manner (for men)¹¹⁶, in the end, she 'reconciled the feelings of guilt that others too have expressed when faced with the realisation that utilising their gender may be advantageous to the research [...]'¹¹⁷. To some extent, I did the same and may well have used my gender to my own avail. For example, I always wore cosmetics (and sometimes quite feminine clothing) to interviews and meetings, and politely tolerated occasional apparent flirtations from some respondents. Moreover, on very many occasions, either during or after an interview, I was invited to have a drink or a meal with the respondent. Whether these invitations and the behaviour shown towards me by some male respondents reflected an exercise in sexual politics or were simply typical of the notorious Spanish hospitality (and although I

¹¹⁰ For an interesting account of the gender balance in some professions in Spain, see John Hooper, *The New Spaniards*, 2nd edition, London, Penguin Books Ltd, 2006, Chapter 10.

¹¹¹ See, for example, Carol A. B. Warren, *Gender Issues in Field Research*, Newbury Park, Beverly Hills, London and New Delhi, Sage Publications, Inc, 1988, p. 18.

¹¹² *Ibid.*, p. 36.

¹¹³ See Rawlinson, 'Mission impossible? Researching organized crime', *op. cit.*, p. 299.

¹¹⁴ Piacentini, *op. cit.*, p. 19.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*, p. 21.

¹¹⁷ *Ibid.*

sometimes politely declined such offers, preferring instead to return to my hotel where I could relax and review my interview notes), I have to admit that, on some occasions, I accepted these offers for the benefits that such socialising might bring for my research and the possible information that I could gain in a less formal setting. I can also associate with Fountain's account of the strategies she used to collect data for her doctoral study on the social and economic organisation of a network of British cannabis dealers, which reveals how gender can prove to be an instrumental advantage. In relation to some male members of the network, she states:

Sally [one of her 'gatekeepers'] and I exploited their paternalism by displaying wide-eyed naivety which flattered them and enabled us to ask very unhip questions.¹¹⁸

Yet, it is clear that exploiting the advantages of gender also entails some personal and ethical costs¹¹⁹. As Rawlinson states, using gender in this way:

[...] raises a number of ethical issues for female ethnographers [...], including the extent to which they can and should behave in a way that betrays their own values, which may only serve to reaffirm the values of a society they would normally hold up for criticism.¹²⁰

The fieldwork

As noted above, fieldwork in all three of the case study regions (and elsewhere) was undertaken. Primarily, at the end of 2005, I spent a two-month period at the *Instituto Andaluz Interuniversitario de Criminología* at the University of Málaga, which kindly hosted me as a visiting research student. Subsequently, and throughout the remaining period of the research, a considerable number of further fieldwork trips were made. However, these trips were shorter in duration than the first one and, for practical reasons, ranged from stays of just four or five days to two weeks in Spain (this will be discussed further below).

The undertaking of fieldwork had several basic purposes: to collect data that may not have been available outside of Spain; to gain further insight into the topic through television, radio and additional newspaper reports; and to generally observe and appreciate the characteristics of the case study regions in order to undertake some contextual analysis of their physical environments (for example, with regard to the standard explanations discussed in Chapter 3, to visually see the number of tourists, level of construction work, geographical peculiarities, and so on). The main purpose of the fieldwork trips, however, was to meet with and talk to potential informants, such as journalists and official and

¹¹⁸ Jane Fountain, 'Dealing with Data' in Dick Hobbs and Tim May (eds.), *Interpreting the Field: Accounts of Ethnography*, Oxford, Oxford University Press, 1993, p. 158.

¹¹⁹ See, for example, H. L. Ackers, 'Racism, Sexuality, and the Process of Ethnographic Research' in Hobbs and May, *op. cit.*, pp. 209-239.

¹²⁰ Rawlinson, 'Mission impossible? Researching organized crime', *op. cit.*, pp. 299-300.

academic experts in the field. In this regard, and in addition to the more formal interviews discussed above, during the fieldwork periods, I also had a number of informal meetings with various individuals who were knowledgeable about the subject matter of the thesis for one reason or another. Because of their informal nature, however, these meetings have not been classed or recorded as interviews.

The undertaking of the fieldwork proved crucial to the research (and turned out to be very enjoyable). However, it was far from easy and did not always run smoothly. I was surprised by the amount of bureaucracy that appeared to hinder everything that I wanted to do – everywhere that I went (even the National Library), my passport was taken, my mobile phone was checked, and my bag was searched or scanned. Despite its European proximity, Spain appeared to have a somewhat ‘alien’ culture. Spending time, alone, in a foreign country; being away from family and friends; conducting research in a foreign language; and incurring costs in terms of money and time, also raised some personal anxieties. I had to endure lots of ‘hanging around’ and became frustrated when promises were broken.

The first period in Málaga, for example, initially appeared to have been of little value, certainly in terms of the minimal number of interviews undertaken during this period (by which I was measuring my ‘success’). As a result, I chose not to return there after spending Christmas in the UK (even though I was welcome to do so by the Institute and returning had been part of my initial plan) – I simply could not afford the time and money that it would cost in returning to Málaga if so little was to be gained. With hindsight, however, some value can be attached to the period spent in Málaga. Indeed, benefitting greatly from the experience and expertise of the researchers in the Institute, it was during this time that the research problem was really refined. During this time, I also produced and piloted the questionnaire. Above all else, however, it taught me to be more proactive in facilitating the research and securing interviews.

Thus, on my return to the UK, I set about finding new contacts with some vigour. I sent literally hundreds of letters and emails to various institutions and organisations in the case study regions and at national level (ministries, delegations and sub-delegations of the government, local administrations and town halls, political parties, parliamentary groups, judicial bodies, courts, policing and law enforcement bodies, international organisations with seats in Spain, newspapers, press agencies, television and radio stations, universities, and so on) in the hope that I could secure contact with some of those involved in these who may potentially have knowledge or an informed opinion on the topic and, although in the vast majority of cases, this came to nothing, I was getting some possible leads, mostly in Madrid. Following these up, I was able to arrange some interviews in advance and could

plan visits to Spain around these. These interviews usually ended with suggestions of further contacts and I gained access to other informants through the 'snowballing' sampling technique of personal contact. Advice along the lines of 'you should talk to so-and-so ...' was always followed, and the approach of 'x advised me to contact you' in initial communications with potential respondents afforded me some more success. This period of fieldwork, however, was undertaken in a very different way to the first one in Málaga. Rather than spending a continuous period of time in Spain, practical considerations meant that I was now forced to undertake shorter bursts of fieldwork in the country (to fit around my teaching work). During this phase of the fieldwork (predominantly March – December 2006, but also at various points throughout 2007), I was visiting Spain regularly, sometimes for just a few days at a time, but often on a fortnightly basis. The majority of these visits were to Madrid but I also went to Galicia and the Costa del Sol (and Cataluña) during this time too¹²¹. Indeed, this way of undertaking the fieldwork actually had several advantages: because my time in Spain was limited, I used it a lot better.

In sum, although the number of formal interviews that I undertook is quite modest in comparison with other pieces of research (for the reasons discussed above), the informal meetings and conversations I had with others not included in my interview list, on many occasions, proved just as fruitful as my interviews did and they have undoubtedly served to inform the research. In other ways, too, the fieldwork became essential in furthering my understanding of why illicit enterprise flourishes in Spain. As Rawlinson argues:

One of the most important aspects of being in an alien culture is the ability to observe not just the subject of the study, but the context in which it lies.¹²²

Indeed, the contextual and cultural knowledge that I gained of Spain and the professional settings that I entered during my fieldwork, was immense, and my understanding of some of the key issues in this thesis was surely furthered as a result (and could not have been gained in any other way). The many days I spent in the *Audiencia Nacional* (Spain's National Court), for example, just hanging around (in the hope that I might secure an interview) taught me a lot about that institution and the way it works. Furthermore, living and working in Spain (as opposed to being there as a tourist – as I had been on many occasions) allowed me to see different things and things differently. The apartment I lived in during my time in the Costa del Sol during the 'out of season' holiday months allowed me to observe the foreign population of Benalmádena Costa and the attitudes and way of

¹²¹ The fact that an interview took place in a certain location does not necessarily indicate that the issues discussed during that interview related to that region. Rather, it merely reflects the location of the particular interviewee on that particular day. Thus, I interviewed professionals in Madrid who were 'experts' on the Costa del Sol and professionals in Galicia who were 'experts' on Madrid, for example.

¹²² Rawlinson, 'Mission impossible? Researching organized crime', *op. cit.*, p. 304.

life of these people (as well as what appeared to be some drug deals). For the first time, I also observed the extensive construction work on the Costa (something I had not noticed as a tourist, despite it always being there). Simultaneously, I was spending my days at a Spanish institution, with Spanish people, which gave me an entirely different perspective. On one trip, I spent a week just travelling around Galicia, visiting the rías that are used so extensively in the trafficking of cocaine. As Rawlinson states:

[...] without the 'just looking' factor to complement the 'hard' data of surveys and interviews, our vocabulary of understanding, particularly of a phenomenon as complex as organized crime, is severely limited.¹²³

Despite all the difficulties and (personal) challenges, then, the undertaking of fieldwork proved crucial to the research.

Structure of the thesis

Having considered the methodology and methods of data collection, and having introduced the aims and hypothesis of the research in this chapter, Chapter 2 will discuss and review the definitional debate relating to the use of the term 'organised crime', with the overall aim of delimiting and clarifying what is meant by the concept in this thesis. It will be argued here that Spain's particular manifestation of 'organised crime' should be more appropriately described as 'illicit enterprise' and, in order to emphasise this, a discussion of the predominant forms of criminal activity that affect Spain will also be included within this chapter. Chapter 3 will then begin to analyse the facilitating factors of illicit enterprise in Spain. This chapter will commence by presenting and assessing the standard explanations used to account for this kind of criminal activity in the country. It will be argued here that, although these explanations have some value, they are essentially inadequate in providing a comprehensive understanding of why illicit enterprise flourishes in Spain. Leading on from this, therefore, the second part of Chapter 3 will explain how the hypothesis was developed. Subsequently, Chapter 4 will discuss the nature and extent of corruption in Spain and provide examples of the different types of corruption that occur there. In support of the hypothesis, this chapter will show how incidences of corruption reveal vulnerabilities in the political, judicial and law enforcement spheres in Spain, which are exploited by criminal groups engaged in illicit enterprise. Chapter 5 will then consider how the Spanish state responds to illicit enterprise and will argue that further support for the hypothesis can be found in the degree of political priority and attention given to illicit enterprise in Spain, as well as in some apparent weaknesses and inefficiencies in the legal, judicial and law enforcement spheres. Finally, Chapter 6 will draw out the key findings of

¹²³ *Ibid.*, p. 305.

the thesis, identify the strengths and limitations of the research and consider some possible avenues of further research. Throughout the thesis, evidence and examples from the case study regions will be interwoven into the analysis in order to illustrate pertinent points and issues.

Chapter 2

What is 'Organised Crime'?

The central focus of this thesis is 'organised crime'. Therefore, in order to be able to analyse the factors that facilitate this, it is necessary to discuss the meaning of this term. What, exactly, is 'organised crime'? Finding an answer to this question, however, is not particularly straightforward because, in Schelling's words, by 'organised crime', 'we do not mean simply "crime that is organised"'¹. The purpose of this chapter, then, is to both highlight, and discuss, the debate concerning definitional issues and also review some of the contesting definitions of 'organised crime' whilst simultaneously delimiting what is meant by the term in *this* thesis. In relation to this latter issue, some of the findings of this research detailing the types of criminal activities that flourish in Spain (and the groups that engage in these) will be incorporated into this chapter and, from this, we will see that the 'organised' illegal activities occurring in Spain constitute a specific form of 'organised crime'; that of 'illicit enterprise'. This discussion will thus provide a clear entry point for the analysis that follows relating to the factors that facilitate this kind of activity in Spain.

The many difficulties in defining and clarifying 'organised crime' (as well as criticisms relating to the actual use of this term) are widely acknowledged and well documented. As Michael Levi pointed out in 1998: 'It has become commonplace to observe that the term 'organised crime' is frequently used but difficult to define'² and, as Harfield noted ten years later, 'little has changed to warrant amending [Levi's] axiomatic observation [...]'.³ Indeed, almost every publication on this topic inevitably contains a section or commentary or, at least, an acknowledgment of the difficulties in defining the term.

The definitional difficulties arise for a number of reasons. To some extent, understanding is a matter of perspective: different people understand the term quite differently; not everyone has identical perceptions of what 'organised crime' is⁴. Law enforcement and criminal justice officials are likely to see 'organised crime' much

¹ Thomas C. Schelling, *Choice and Consequence*, Cambridge, Massachusetts, Harvard University Press, 1984, p. 180.

² Michael Levi, 'Perspectives on "Organised Crime": An Overview', *The Howard Journal*, Vol. 37, No. 4, 1998, p. 335.

³ Clive Harfield, 'The organization of "organized crime policing" and its international context', *Criminology & Criminal Justice*, Vol. 8, No. 4, 2008, p. 483.

⁴ Jay S. Albanese, *Organized Crime in America*, 3rd edition, Cincinnati, Ohio, Anderson Publishing Co., 1996, p. 76.

differently than the public at large and academic scholars are likely to define 'organised crime' according to their general perspective or particular purpose⁵. Thus:

Economists model it in terms of economic factors. Government investigators model organized crime as a hierarchical government-like enterprise. Social scientists view it as a social phenomenon.⁶

Disputes over the definition of 'organised crime' may also arise because experts and researchers in this field may be exposed to different evidence. As Kelly reminds us:

Research has shown that experts (i.e. law enforcement specialists at local and national levels, journalists, and social scientists) located in different professional settings do not always share equal access to data nor do they conduct their work on similar data bases.⁷

Furthermore, definitions are specific to time and place. It is likely that 'organised crime' will be understood quite differently in different societies and cultures⁸ and one fundamental characteristic of 'organised crime' is that it constantly changes and mutates. Therefore, 'organised crime' as it was in the 1930s is hardly comparable to 'organised crime' in the 1980s⁹, and neither is comparable to contemporary 'organised crime' in the twenty first century. Hence, definitions and models of the phenomenon may need to be constantly revised and updated. As Levi questions:

Why, after all, should an organizational model of crime that applies to parts of Italy in some historical periods apply either to the north-eastern US or the entire US; and even if it accurately depicts crime there, why should it apply throughout, or indeed in any part of, the UK, Germany, or Canada [or – we could add – Spain]?¹⁰

The overall result, then, is that the term 'organised crime' is, and has been, variously used to cover a range of different phenomena. For example, the term has been used to refer to a myriad of criminal organisations, often distinguished by their ethnicity (such as, typically, the Italian mafias, the so-called Colombian cartels, the Russian Mafia, the Japanese Yakuza, the Chinese Triads, and so on), which can, and do, vary considerably in their structure, characteristics and *modus operandi*. The term has also been used to refer to many different forms of criminal activity (such as drug and weapons trafficking, people

⁵ See, for example, Andrzej E. Marek, 'Organized Crime in Poland' in Kelly, *Organized Crime: A Global Perspective*, *op. cit.*, p. 160; Robert J. Kelly, 'Trapped in the Folds of Discourse: Theorizing About the Underworld', *op. cit.*, p. 48; Boronia Halstead, 'The Use of Models in the Analysis of Organized Crime and Development of Policy', *Transnational Organized Crime*, Vol. 4, No. 1, 1998, p. 2.

⁶ Albanese, *op. cit.*, p. 76.

⁷ See Robert J. Kelly, 'Criminal Underworlds: Looking Down on Society From Below' in Robert J. Kelly (ed.), *Organized Crime: A Global Perspective*, Totowa, New Jersey, Rowman and Littlefield Publishers, 1986, p. 27, note 1.

⁸ Marek, *op. cit.*, p. 160.

⁹ See Kelly, 'Criminal Underworlds: Looking Down on Society From Below', *op. cit.*, p. 27, note 1.

¹⁰ Michael Levi, 'The Organization of Serious Crimes' in Mike Maguire, Rod Morgan and Robert Reiner (eds.), *The Oxford Handbook of Criminology*, 3rd edition, Oxford, Oxford University Press, 2002, p. 881, citing M. Beare, *Criminal Conspiracies: Organized Crime in Canada*, Scarborough, Nelson Canada, 1996.

smuggling/trafficking, extortion, protection rackets, the smuggling of contraband, loan sharking, fraud and counterfeiting, vehicle theft and smuggling, organised prostitution, illegal waste trafficking, the trafficking of endangered species, money laundering, and so on)¹¹. Some have even gone as far as claiming that 'white collar' crime is 'organised crime'¹². Furthermore, as Rawlinson points out, the term 'has become synonymous with other expressions such as mafia, criminal cartels, gangsters, the mob, to name but a few'¹³. The outcome, therefore, as Albanese states, is that: 'There appears to be as many descriptions of organized crime as there are authors'¹⁴. The mere 150 or so of these descriptions that academic and former lawyer, Klaus von Lampe, lists on his website on organised crime research¹⁵, for example, emphasise the problems in finding a generally accepted definition of 'organised crime' as a result of the range of different variables of which it is composed¹⁶. Attempts to define 'organised crime', then, have proved to be a continuing source of controversy and contention, and definitional disputes continue to rage in the literature.

Finding some consensus on the definition of 'organised crime', however, is important for a number of reasons. Clearly, from a policy perspective, a clear and effective definition can help those engaged in curbing 'organised crime' know what they are fighting, and ensure that resources, responsibilities and penalties can be appropriately allocated and evaluated. Moreover, Longo argues that:

[...] there is a methodological requirement of finding an exclusive meaning of a term which is not yet unanimously defined either by those scientific disciplines involved in this topic [such as international relations, sociology, criminology, international law, penal law] or by the different judicial systems.¹⁷

A clearly defined term, she argues, 'could facilitate collaboration between different disciplines and activate a synergic action or energy between them'¹⁸. It is not the aim or purpose of this thesis to attempt to solve the definitional debate, however we do need to acknowledge and discuss the conceptual problems in order to clarify which of the

¹¹ See, for example, Europol, *EU Organised Threat Assessment: OCTA 2011*, The Hague, Europol, [no date], [http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_\(OCTA\)/OCTA_2011.pdf](http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_(OCTA)/OCTA_2011.pdf) [accessed 30/05/11].

¹² See, for example, Edwin H. Sutherland, *White Collar Crime*, New York, Holt, Rinehart and Winston, 1961.

¹³ Paddy Rawlinson, 'Understanding organized crime' in Chris Hale, Keith Hayward, Azrini Wahidin and Emma Wincup, *Criminology*, 2nd edition, Oxford, Oxford University Press, 2009, pp. 323-324.

¹⁴ Albanese, *op. cit.*, p. 2.

¹⁵ See <http://www.organized-crime.de/OCDEF1.htm> [accessed 07/03/11].

¹⁶ Francesca Longo, 'Discoursing organized crime: Towards a two-level analysis' in Felia Allum, Francesca Longo, Daniela Irrera and Panos A. Kostakos (eds.), *Defining and Defying Organized Crime: Discourse, perceptions and reality*, London and New York, Routledge, 2010, p. 15 citing Klaus von Lampe, 'Not a process of enlightenment: the conceptual history of organized crime in Germany and the United States of America', *Forum on Crime and Society*, Vol. 1, No. 2, 2001, pp. 99-116.

¹⁷ Longo, *op. cit.*, p. 15.

¹⁸ *Ibid.*, pp. 15-16.

understandings and definitions of 'organised crime' are useful (or not) for our purposes. We need to find some clarity because, essentially, 'how we define has an impact on perception'¹⁹ and how we explain 'will be coloured by what Dwight Smith refers to as "the entry point" of our discussion or investigation'²⁰.

Defining 'organised crime' in Spain – from 'organised crime' to 'illicit enterprise'

In sifting through the definitional debate, we could begin by acknowledging Van Duyne and Vander Beken's claim that the phrase 'organised crime' is not a completely outlandish string of words – at the very least, we have a general image of what 'organised crime' may be from decades of popular movies and books on this phenomenon²¹. Indeed, to echo the opening sentence of the UK's 1993 *Organised Crime Conference: A Threat Assessment*, 'organised crime' may be difficult to describe but, like an elephant, 'you know it when you see it'.²² Yet, this does not help us to find conceptual clarity and so a consideration of some legal/law enforcement and academic definitions might prove more insightful.

Legal and law enforcement definitions

There exists a range of legal definitions of 'organised crime' that are written or stated in some national penal codes and statutes, or that are laid down by international organisations that have law enforcement functions. In the USA, for example, the Racketeer Influenced and Corrupt Organizations legislation (RICO), which is part (Title IX) of the Organized Crime Control Act 1970, makes it an offence to acquire, operate or receive income from an 'enterprise' through a 'pattern of racketeering activity'. 'Enterprise' can include an individual or a group, 'pattern' means the commission of at least two of the specified crimes within a ten-year period, and 'racketeering' includes a wide array of crimes²³. As such, RICO has a wide application, which has been extended even further by case law. Indeed, it encompasses crimes committed by legitimate businesses and agencies

¹⁹ Rawlinson, *op. cit.*, p. 328.

²⁰ *Ibid.*, p. 332, citing Dwight Smith, 'Wickersham to Sutherland to Katzenback: Evolving an "official" definition for organized crime', *Crime, Law and Social Change*, Vol. 16, 1991, pp. 135-154.

²¹ P. C. van Duyne and T. Vander Beken, 'The incantations of the EU organised crime policy making', *Crime, Law & Social Change*, Vol. 51, 2009, p. 263.

²² See *ibid.*, p. 267, citing National Criminal Intelligence Service, *Organised crime conference: A threat assessment; a summary of speeches presented at the Police Staff College, Hampshire, 24th-26th May*, United Kingdom, OICJ, 1993.

²³ For further details regarding RICO, see, for example, Levi, 'The Organization of Serious Crimes', *op. cit.*, pp. 883-884; Albanese, *op. cit.*, pp. 197-201; Howard Abadinsky, *Organized Crime*, 6th edition, Belmont, CA, Wadsworth/Thomson Learning, 2000; pp. 400-405; Joseph Wheatley, 'Evolving perceptions of organized crime: the use of RICO in the United States' in Allum *et al.*, pp. 85-98.

and has been used to prosecute the criminal activities of a county sheriff's department, abortion protesters and a state tax bureau, amongst other entities²⁴. It has therefore been criticised, not least because its scope is seen as 'overreaching':

[...] leading to the prosecution of persons who, although they may have been involved in criminal behavior, are not by any stretch of the imagination connected to organized crime.²⁵

In this respect (and others), then, this American conceptualisation is too wide for the purposes of this thesis and does not adequately reflect what is meant by 'organised crime' in Spain. For example, more than one person is involved in the type of 'enterprise' with which we are concerned (as will be discussed below, the criminal activities flourishing Spain are undertaken by groups or, at least, networks of individuals). In that regard, the United Nations (UN) definition is more accurate. Article 2 of the United Nations Convention Against Transnational Organized Crime defines an 'organised crime group' as:

[...] a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences in accordance with this Convention in order to obtain, directly or indirectly, a financial or other material benefit.²⁶

'Structured group' is to be considered in its widest sense so as to encompass groups with a variety of structures²⁷. Although similarly quite broad, Interpol's definition also has some value. It defines 'organised crime' as:

[...] any enterprise or group of persons engaged in a continuing illegal activity which has as its primary purpose the generation of profits and continuance of the enterprise regardless of national boundaries.²⁸

Definitions like these are useful to an extent because they outline some of the purposes and activities of 'organised crime' and they underline that 'organised crime' does not merely involve a random or spontaneous getting together of individuals for the commission of a one-off offence. Generally, however, many of the current definitions of this type tend to be relatively ambiguous and much wider in scope than the academic ones which will be discussed later in this chapter. This is not surprising given that their purpose is to provide a basis for the successful investigation and prosecution of the people engaged

²⁴ Albanese, *op. cit.*, p. 197.

²⁵ Abadinsky, *op. cit.*, p. 403.

²⁶ Article 2 United Nations Convention Against Transnational Organized Crime 2000, http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_eng.pdf.

²⁷ Article 2(c) states that "'Structured group" shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure'.

²⁸ See, for example, David L. Carter, 'International Organized Crime: Emerging Trends in Entrepreneurial Crime' in Patrick J. Ryan and George E. Rush (eds.), *Understanding Organized Crime in Global Perspective: A Reader*, Thousand Oaks, California, Sage Publications, Inc., 1997, p. 137.

in 'organised crime'. Much legislation is probably purposely written to cover a wide set of circumstances so as 'to avoid the risk that any major criminal might "get away with it"'²⁹. Yet, because of their breadth, they do not provide the conceptual clarity needed for this thesis, and they do not take into account the fact that manifestations of 'organised crime' differ from country to country. Indeed, as argued above, an analytically useful definition must be specific to time and place.

As a result, some countries have formulated their own definitions of 'organised crime' (presumably reflecting the specific nature of that phenomenon in their state). For example, the Dutch intelligence service views 'organised crime' as having eight progressive elements, the first being 'any hierarchical structure' and the last being 'members who act violently against competitors'³⁰ and the 1994 Swiss Penal Code defines a criminal organisation as:

[...] an organization which keeps its structure and personnel a secret and whose aims are to commit criminal acts of violence or procure financial advantage by criminal means.³¹

The working definition of 'organised crime', used by Germany's Bundeskriminalamt, and adopted by the Working Party of Police and Judicial Authorities (AG Justiz/Polizei) in May 1990, states that:

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 if more than two persons, each with his/her own assigned tasks, 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.³²

The Serious Organised Crime Agency of the UK, however, aims to understand 'organised crime' in terms of the physical, social, environmental, economic and structural 'harm' it poses at individual/local, community/regional and UK/international levels³³ and, by way of definition, it claims that:

Organised crime is defined as 'those involved, normally working with others, in continuing serious criminal activities for substantial profit, whether based in the

²⁹ Levi, 'The Organization of Serious Crimes' *op. cit.*, p. 882.

³⁰ See Carter, *op. cit.*, p. 137.

³¹ Maria Luisa Cesoni, 'Mafia-Type Organizations: The Restoration of Rights as a Preventive Policy' in Emilio C. Viano (ed.), *Global Organized Crime and International Security*, Aldershot, Ashgate Publishing Limited, 1999, p. 161 citing 1994 Swiss Penal Code, Article 260ter.

³² See, for example, Bundeskriminalamt, *Organised Crime 2008 National Situation Report, Press Release Summary*, Bundeskriminalamt, 2008,

http://www.bka.de/lageberichte/ok/2008kf/lagebild_ok_2008_kurzlage_englisch.pdf [accessed 30/04/11].

³³ Serious Organised Crime Agency (SOCA), *The United Kingdom Threat Assessment of Organised Crime 2009/10*, SOCA, <http://www.soca.gov.uk/about-soca/library?start=10> [accessed 01/05/11].

UK or elsewhere'. Organised criminals that work together for the duration of a particular criminal activity or activities are what we call an organised crime group.³⁴

Although there are some similar variables contained in definitions such as these (relating to structure, use of violence, motivation, and so on), it is nevertheless apparent that different states emphasise different elements when conceptualising 'organised crime' and that definitions, essentially, vary. Although this is appropriate (if it reflects the different manifestations of 'organised crime' in respective states), it nevertheless highlights a lack of definitional consensus in the legal sphere. Within the European Union (EU) alone, for example, 'organised crime' is defined quite differently within the national criminal laws of its member states, and some member states do not appear to have their own formal definition of 'organised crime' at all. Unfortunately, for our purposes, Spain is one such member state (although there have been some positive moves in the right direction in this regard since 2010) – as will be discussed in Chapter 5, although *Ley Orgánica 5/2010 de 22 de junio*, (which modified *Ley Orgánica 10/1995 de 23 de noviembre* of the Penal Code, and which came into force in December 2010) now defines 'criminal organisation'³⁵, the primary piece of criminal legislation, the Penal Code, still does not contain a definition of 'organised crime' and, until 2010, only Article 282(4)*bis* of the *Ley de Enjuiciamiento Criminal* (Criminal Procedure Law) relating to Spain's use of undercover agents offered some indications of what 'organised crime' might mean in those particular circumstances. Indeed, it will be argued later in this thesis that the lack of a clear and formal definition of 'organised crime' in Spain itself may contribute to the vulnerabilities apparent in the legal sphere which, it will be argued, facilitate 'organised' criminal activity in Spain. For the purposes of this chapter, though, this means that we have to search outside of the primary Spanish legislation to find an entirely clear entry point for our discussion. Furthermore, in the absence of a formal definition of 'organised crime', it is unclear how the Spanish state and its citizens conceptualise the types of criminal activities and behaviours discussed in this thesis. However, when specifically asked which one of three given definitions corresponded most closely to how they defined and understood the term 'organised crime'³⁶, three respondents chose the definition contained in Article 282(4)*bis*³⁷ of the *Ley de Enjuiciamiento Criminal* relating to Spain's use of undercover agents, and two respondents indicated a preference for the UN definition discussed above³⁸. The majority of the

³⁴ Serious Organised Crime Agency, 'Home – Threats – Organised crime groups', 2011, <http://www.soca.gov.uk/threats/organised-crime-groups> [accessed 01/05/11].

³⁵ In Article 570 *bis*.

³⁶ See Appendices C and D.

³⁷ Questionnaires QH, QJ and QL.

³⁸ Questionnaires QC and QK.

questionnaire respondents (six of the thirteen) answered that it was the EU definition³⁹ and another two respondents stated that all three of the definitions corresponded to their understanding⁴⁰. It is clear, then, that the EU definition of 'organised crime' has some value in Spain (and this was confirmed in a recent Ministry of the Interior document⁴¹, which used the eleven-point definition discussed below), but does it accurately depict the nature of 'organised crime' there?

A joint report from the European Commission and Europol, published in 2001⁴², highlighted the significance of a harmonised definition of 'organised crime' within the EU. As a means of developing a 'union-wide' approach to the problem⁴³, it laid down eleven characteristics as a mechanism for defining 'organised crime', of which at least six had to be met. The first four were classed as mandatory:

1. collaboration among more than two people;
2. extending over a prolonged or indefinite period of time;
3. suspected of committing serious criminal offences, punishable by imprisonment for at least four years or a more serious penalty; and
4. the central goal is profit and/or power.

The remaining seven indicators were classed as optional criteria, but at least two of these also had to be met:

5. specialised division of labour among participants;
6. exercising measures of discipline or control;
7. employing violence or other means of intimidation;
8. employing commercial or business-like structures;
9. participating in money laundering;
10. operational across national borders;
11. exerting influence over legitimate social institutions (polity, government, justice, economy).⁴⁴

This approach marked the EU's clear will to shape national definitions as a means of developing standardised security mechanisms⁴⁵ but, in taking this approach, the EU produced a broad and vague definition. Thus, as Levi summarises:

³⁹ Questionnaires QA, QB, QE, QG, QI and QM.

⁴⁰ Questionnaires QD and QF.

⁴¹ Gobierno de España (Ministerio del Interior (MIR)), *Compañías lucha contra el crimen organizado en España*, Madrid, MIR, 02/11/10, http://www.interior.gob.es/DGRIS/Balances/Balance_2010/pdf/bal_crimen_organizado_noviembre_presentacion.pdf [accessed 30/04/11].

⁴² European Commission and Europol, *Towards a European Strategy to Prevent Organised Crime*, Commission Staff Working Paper, Brussels, European Commission and Europol, SEC 433, 2001.

⁴³ See Helena Carrapiço, 'The evolution of the European Union's understanding of organized crime and its embedment in EU discourse' in Allum *et al.*, pp. 50-51.

⁴⁴ European Commission and Europol, *op. cit.*.

Within the EU definition, provided that they work over a prolonged period of time – however long that is – ‘organised crime’ can mean anything from major Italian syndicates in sharp suits or peasant garb, to three very menacing burglars with a window-cleaning business who differentiate by having one as look-out, another as burglar, and a third as money-launderer, and who sue every newspaper who suggests that their business is disreputable!⁴⁶

This definition was, until very recently, also used by Europol, which, in addition to investigating organised or ‘serious’ crime involving more than one EU member state, oversees the compilation of data received from member states for the annual (formerly) Organised Crime Situation Reports (OCSRs) and (since 2006) the Organised Crime Threat Assessments (OCTAs)⁴⁷. Several problems have been identified in relation to the respective OCTAs⁴⁸, and the OCSRs before them. Not least, and as van Duyne and Vander Beken argue, the validity of the OCTA, for example, hinges on the validity of the definition of ‘organised crime’ used to formulate it⁴⁹. Thus, the broadness of the eleven-point definition as a whole, and the ‘ambiguous, badly delineated, redundant or overlapping’⁵⁰ components within it, underline the need to be more precise when defining ‘organised crime’. In relation to the vocabulary used in policies on police cooperation, however, it would appear that Europol and the EU are now favouring a lexicon that is even less precise.

Indeed, recently, as the legal basis of Europol has changed (from being underpinned by a Convention to a Decision) and the financing of it has moved from member state contributions to the Community budget, there has also been a shift in the vocabulary within which policies on EU police cooperation are articulated: a shift from ‘organised crime’ to ‘serious crime’.⁵¹ As Dorn explains, with the aim of easing the support provided to EU member states in relation to cross-border criminal investigations where the involvement of ‘organised crime’ is not demonstrated from the start, Europol’s sphere of competence has changed from those crimes which are ‘organised’ to a wider set of criminal acts that are considered to be ‘serious’ even if they do not meet the criteria for ‘organised crime’ (for example, alongside a number of crimes that are commonly regarded as

⁴⁵ Carrapiço, *op. cit.*, p. 51.

⁴⁶ Levi, ‘The Organization of Serious Crimes’, *op. cit.*, p. 883.

⁴⁷ Roberto Gonella, ‘The Role of Europol in Fighting Organised Crime’, paper presented at the 2nd General Conference of the European Consortium for Political Research (Section 19: Organised Crime, Politics and Civil Society), Philipps-Universität, Marburg, Germany, 18/09/03 – 21/09/03.

⁴⁸ See, for example, van Duyne and Vander Beken, *op. cit.*. See also Frank Gregory, ‘Classify, report and measure: The UK Organised Crime Notification Scheme’ in Adam Edwards and Peter Gill (eds.), *Transnational Organised Crime: Perspectives on global security*, (paperback edition), London and New York, Routledge, 2006, pp. 78-96.

⁴⁹ Van Duyne and Vander Beken, *op. cit.*, p. 274.

⁵⁰ *Ibid.*, p. 269.

⁵¹ See Nicholas Dorn, ‘The end of organised crime in the European Union’, *Crime, Law & Social Change*, Vol. 51, 2009, pp. 283-295.

belonging to 'organised crime', the Europol Decision also includes, for example, terrorism, racism and xenophobia, rape, arson and the unlawful seizure of aircraft/ships)⁵². Dorn sees this shift in the EU's vocabulary – a shift, he argues, that can also be expected to change police vocabulary⁵³ – as marking the 'end' or the 'impending fall'⁵⁴ of the use of the term 'organised crime'. Whether that ends up being the case remains to be seen but Europol's move away from 'organised crime' certainly might prove beneficial in practical and political terms by avoiding the acknowledged problems associated with the concept, such as:

[...] its fuzzy boundaries (how many people? over what time period? with or without threats or violence? etc!); its political partiality (tendency to focus upon foreigners and away from corporate crime); and the difficulties of reporting against it in a meaningful and consistent manner. The concept generates more heat than light. It causes difficulties for police priority-setting, management, intelligence, reporting – and hence for the prospects for accountability.⁵⁵

For the purposes of this thesis, however, the adoption of the term 'serious crime' is not appropriate. This is because although there is no doubt that 'serious' crime can, and does, include 'organised crime', it also includes criminal activity outside the scope of this thesis and outside the scope of what is usually regarded as 'organised crime' (such as terrorism, rape, arson, and so on, as detailed above). Terrorism, for example, can be distinguished from 'organised crime' on the basis of the motivations of those involved in these respective forms of crime. As Abadinsky points out, so-called organised crime groups are 'not motivated by social doctrine, political beliefs, or ideological concerns [...]'⁵⁶. Their goals are money and/or power. This distinguishes 'organised crime' groups from other organised groups that violate the law for other purposes, such as terrorist organisations. In some instances, 'organised crime' and terrorist groups may collaborate and exchange illegal goods but 'organised crime' groups:

[do] not have political agendas of their own [...] They [do] not espouse a particular radical, liberal, conservative, or other political ideology.⁵⁷

'Serious' crime, therefore, is too wide a term to use in this thesis. We need to find a better descriptor, and the academic definitions of 'organised crime' could allow us to do that.

⁵² *Ibid.*, pp. 286-287.

⁵³ *Ibid.*, p. 287.

⁵⁴ *Ibid.*, p. 283.

⁵⁵ *Ibid.*, p. 292.

⁵⁶ Abadinsky, *op. cit.*, pp. 1-2.

⁵⁷ Longo, *op. cit.*, p. 17, citing J. O. Finckenaue, 'Problems of definition: what is organized crime?', *Trends in Organized Crime*, Vol. 8, No. 3, p. 65.

Academic definitions

The approach to defining 'organised crime' in the academic literature, however, is haphazard. Although definitions can be classified in all sorts of ways, for example by perspective: economic, social, political, legal, national, international and so on, the main problem appears to lie in the fact that some definitions focus on *who* is involved in organised crime (that is, the criminal groups), whilst others focus on *what* is involved (that is, the criminal activities and behaviours).

The 'who' question – who is involved in 'organised crime'?

Many of the definitions and models of organised crime which tend to focus on the 'who' question emphasise the way in which 'organised crime' is organised and the structural make-up of criminal groups (matters over which there have been some considerable disagreement). The hierarchical model⁵⁸ of organised crime, for example, generally depicts 'organised crime' as a violent group of criminals who act together on a long-term basis, as stereotypically portrayed in popular discourse by films and novels such as *The Godfather*. This model of organised crime was perhaps firstly, and certainly most notoriously, proposed to account for Italian-American criminal activity in the USA. It describes 'organised crime' as a single monopolistic unit or 'Mafia', imported to the USA by Italian immigrants, which has a corporate or government-like hierarchical structure, based on a division of labour (with individuals having specialised functions and skills), and governed by secrecy, initiation rituals, formal rules of behaviour and an unwritten code of honour. It first came to light in 1950 when US Senator Estes Kefauver, recognising the importance of 'organised crime' as a national policy issue, chaired a Special Senate Committee to investigate the phenomenon. The 'Kefauver Committee' held live televised hearings across the country (creating huge publicity) and concluded:

There is a sinister criminal organization known as the Mafia operating throughout the country with ties in other nations in the opinion of the committee. The Mafia is a direct descendant of a criminal organization of the same name operating in the island of Sicily [...].⁵⁹

In reality, it seems that the Committee's conclusions were based more on the opinions of the testifying law enforcement officials than on hard evidence, but this 'mafia mystique'⁶⁰, or alien conspiracy theory, was accepted wholeheartedly by the American public and the

⁵⁸ Albanese (*op. cit.*, p. 77) refers to a 'hierarchical model', but other authors also variously refer to this model as the 'bureaucratic', 'corporate' or 'alien conspiracy' model.

⁵⁹ Albanese, *op. cit.*, pp. 100-101, quoting US Senate Special Committee to Investigate Organized Crime in Interstate Commerce, *Third Interim Report*, Washington, DC, US Government Printing Office, 1951, p. 2.

⁶⁰ Dwight C. Smith, 'Some Things That May be More Important to Understand about Organized Crime than Cosa Nostra', *University of Florida Law Review*, Vol. XXIV, No. 1, 1971, p. 6.

concept of the 'Mafia' was catapulted to the forefront of public concern, for a while at least⁶¹. In November 1957, public and official concern was reawakened when 58 Italians (some with criminal records) met at the home of Joseph Barbara in Apalachin, New York. In a blaze of publicity, this was heralded as a meeting of, and therefore evidence of, a 'Mafia', although, once more, the event merely cemented public attitudes about the existence of an alien conspiracy rather than presenting any real evidence⁶².

What really gave the concept a boost, however, was Joseph Valachi's testimony before a Senate Sub-Committee on Investigations in 1963 (Valachi was a lower-level criminal associated with the Genovese crime 'family' who turned government informer). Valachi testified to the existence of a nation-wide organisation that was engaged in widespread criminal activity, called *La Cosa Nostra* (which was taken to be an alternative name for 'Mafia'). He gave details of the hierarchical structure of this organisation and described how this new 'Mafia' had emerged: from a bloody power struggle amongst criminal gangs that took place in 1931 (known as the Castellammarese War). Although Valachi's testimony has been criticised for being uncorroborated, inconsistent and fundamentally flawed, his version of events 'proved a godsend for government officials seeking a hook upon which to hang Kefauver and Apalachin'⁶³. His testimony was accepted and it served as a basis for subsequent theories about 'organised crime' in the USA⁶⁴. Predominantly, the conclusions of the President's Commission's Task Force Report of 1967⁶⁵ relied heavily on the revelations of Valachi and the assertions of Kefauver. The report concluded that:

Today the core of organized crime in the United States consists of 24 groups operating as criminal cartels in large cities across the Nation. Their membership is exclusively men of Italian descent, they are in frequent communication with each other, and their smooth functioning is insured by a national body of overseers.⁶⁶

The report also detailed the hierarchical and corporate structure of each criminal group or 'family', which was based on a division of labour and code of conduct, and which, it claimed, resembled that of Mafia groups operating in Sicily⁶⁷. It also described a ruling

⁶¹ See, for example, Albanese, *op. cit.*, p. 77 and pp. 100-103; Abadinsky, *op. cit.*, pp. 440-443; Dick Hobbs, 'Criminal Collaboration: Youth Gangs, Subcultures, Professional Criminals, and Organized Crime' in Mike Maguire, Rod Morgan and Robert Reiner (eds.), *The Oxford Handbook of Criminology*, 2nd edition, Oxford, Oxford University Press, 1997, p. 826.

⁶² For further details of the Apalachin incident see, for example, Albanese, *op. cit.*, pp. 103-107; Hobbs, *op. cit.*, p. 826.

⁶³ Hobbs, *op. cit.*, p. 827.

⁶⁴ For further details of Valachi's testimony, including its inconsistencies and flaws, see, for example, Albanese, *op. cit.*, pp. 107-110; Hobbs, *op. cit.*, p. 827; Abadinsky, *op. cit.*, pp. 443-444.

⁶⁵ President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime*, Washington, DC, US Government Printing Office, 1967.

⁶⁶ *Ibid.*, p. 6.

⁶⁷ *Ibid.*, pp. 7-10.

body, which it called a 'Commission', that served to solve organisational and jurisdictional disputes between the groups⁶⁸. At a time 'when the collected knowledge of organized crime could be found on a single shelf in a library'⁶⁹, the conclusions of the report and the subsequent books and articles written by some of the Task Force consultants and authors of the report's appendices (notably Donald Cressey)⁷⁰, which promoted the model and provided it with scholarly legitimacy, proved very influential. In total, these works defined and influenced the study and understanding of 'organised crime' in the USA well into the 1970s⁷¹ and even beyond⁷².

Although it is the case that other 'organised crime' groups outside of the USA have also been described as having a hierarchical and bureaucratic structure, the hierarchical model has been widely criticised. Predominantly, and as previously indicated, some commentators have particularly highlighted how Valachi's testimony was fundamentally flawed in many respects⁷³ and yet the President's Commission of 1967, and scholars such as Cressey, appeared to rely on and repeat this evidence, without presenting any other original empirical data in support of the hierarchical model. As such, Reuter voiced the concerns of many when he concluded that the theory behind the model had 'never been well developed or subject to rigorous testing'⁷⁴. Varese, however, has recently argued that, in terms of his reliance on the Valachi testimony at least, Cressey 'should be given a suspended sentence'⁷⁵. He points to the fact that Cressey, himself, acknowledged that Valachi's testimony was contradictory at times and that the statements contained in the testimony were often the product of interactions whereby senators interrupted Valachi and

⁶⁸ *Ibid.*, p. 8.

⁶⁹ Patrick J. Ryan and George E. Rush, 'Introduction' in Ryan and Rush, *op. cit.*, p. x.

⁷⁰ For example, Donald R. Cressey, *Theft of the Nation: The Structure and Operations of Organized Crime in America*, New York, Harper & Row Publishers, 1969; Donald R. Cressey, *Criminal Organization: Its Elementary Forms*, New York, Harper & Row Publishers, 1972; Ralph Salerno and John S. Tompkins, *The Crime Confederation: Cosa Nostra and Allied Operations in Organized Crime*, Garden City, New York, Doubleday, 1969; Thomas C. Schelling, 'What is the Business of Organized Crime?', *American Scholar*, 1971, pp. 175-184; Schelling, *Choice and Consequence*, *op. cit.*

⁷¹ See, for example, Peter A. Lupsha, 'Organized Crime in the United States' in Kelly, *Organized Crime: A Global Perspective*, *op. cit.*, p. 37.

⁷² See, for example, Thomas A. Firestone, 'Mafia Memoirs: What They Tell Us About Organized Crime' in Ryan and Rush, *op. cit.*, p. 77 (quoting President's Commission on Organized Crime, *The Impact: Organized Crime Today*, Washington, DC, US Government Printing Office, 1986, pp. 26-27); Charles H. Rogovin and Frederick T. Martens, 'The Evil That Men Do' in Ryan and Rush, *op. cit.*, p. 32.

⁷³ For a detailed criticism of Valachi's testimony and the other evidence used to support the hierarchical model, see Joseph L. Albini, *The American Mafia: Genesis of a Legend*, New York, Appleton-Century-Crofts, 1971, pp. 225-258. See also, for example, Albanese, *op. cit.*, pp. 78-79.

⁷⁴ Peter Reuter, *Disorganized Crime: The Economics of the Visible Hand*, Cambridge, Massachusetts, The MIT Press, 1983, p. 7.

⁷⁵ Federico Varese, 'General Introduction: What is organized crime?' in Federico Varese (ed.), *Organized Crime*, (Critical Concepts in Criminology series), London, Routledge, 2010, p. 11, available at: http://www.sociology.ox.ac.uk/documents/people/materials/varescf/What_is_Organized_Crime_Introduction.pdf (accessed 06/04/11).

often then failed to return to issues that he had raised⁷⁶. Moreover, recent evaluations of Valachi's testimony suggest that, in many parts, it was consistent with, and was corroborated by, other sources⁷⁷.

Nevertheless, beginning in the 1970s, numerous pieces of research were subsequently undertaken (that relied on sources outside of the US government) whose findings appeared to contradict the hierarchical model. The patron-client model⁷⁸ of organised crime, for example, defines and describes 'organised crime', not as a large controlling hierarchy, but as a 'loose agglomeration'⁷⁹ of criminals based on cultural, ethnic or economic ties. According to this model, there appears to be no national crime syndicate that connects individual criminal groups to each other. Instead, there is merely a series of relatively independent, informally coordinated, entities. The first proponent of this view appears to be Albin. As well as refuting the claim that the Mafia was imported to the USA by Sicilian immigrants⁸⁰, he argues that:

Rather than being a rigidly bureaucratized national organization, syndicates in the United States are more adequately understood in terms of patron-client relationships within and between syndicates.⁸¹

In such relationships, the roles, expectations and benefits of the participants are based upon agreement or obligation. At roughly the same time, Ianni's research into an 'organised' crime family in Brooklyn also concluded that groups appeared not to be bureaucratic and this work reinforced the existence of patron-client ties, as described by Albin⁸². Others have also found that 'organised crime' groups tend to display largely informal or 'disorganised' structures. For example, Haller described the illegal enterprises of Italian crime families in the USA as 'informally organized'⁸³ and, from a study of 'upper level' drug smugglers in the south west of the USA, Adler concluded that 'illicit markets are

⁷⁶ *Ibid.*, citing Donald R. Cressey, *Theft of a Nation: The Structure and Operations of Organized Crime in America*, New York, NY, Harper and Row, 1969, p. 37.

⁷⁷ Varese, *op. cit.*, p. 11, citing David Critchley, *The Origins of Organized Crime in America: The New York City Mafia, 1891-1931*, London and New York, Routledge, 2009; Nick Gentile, *Vita di Capomafia: Memorie raccolte da Felice Chiente*, Roma, Crescenzi Allendorf, [1963] 1993; Joseph Bonanno (with Sergio Lalli), *A Man of Honour: The Autobiography of Joseph Bonanno*, New York, Simon and Schuster, 1983.

⁷⁸ Also referred to in the literature as the 'patrimonial' or 'feudal' model.

⁷⁹ Firestone, *op. cit.*, p. 77.

⁸⁰ See Albin, *op. cit.*

⁸¹ *Ibid.*, p. 223.

⁸² See Albanese, *op. cit.*, p. 81; Lupsha, *op. cit.*, p. 38; Abadinsky, *op. cit.*, p.8, all quoting Francis A. J. Ianni with Elizabeth R. Reuss-Ianni, *A Family Business: Kinship and Social Control in Organized Crime*, New York, New American Library, 1972. See also Firestone, *op. cit.*, p. 78, quoting Francis A. J. Ianni, 'The Mafia and the Web of Kinship' in Francis A. J. Ianni and Elizabeth R. Reuss-Ianni, *The Crime Society: Organized Crime and Corruption in America*, New York, New American Library, 1976, p. 55.

⁸³ Mark H. Haller, 'Bureaucracy and the Mafia: An Alternative View' in Ryan and Rush, *op. cit.*, p. 55.

populated by individual entrepreneurs and small organizations rather than massive, centrally organized bureaucracies⁸⁴.

These definitions/models, which emphasise the structural makeup of criminal groups, are useful in so far as they underline the different ways in which criminal groups can be 'organised'. It is clear that members of a criminal group will not engage in random behaviour but will carry out their activities in a coordinated and united way, which will be facilitated by the group having some kind of bonding and structure. However, as we have seen above, the organisational structure of a group is not standardised. Some 'organised crime' groups may have a hierarchical structure that involves specialisation and a clear division of labour, and they may use secret codes and engage in rituals as bonding mechanisms. Other groups, however, may have a looser organisational structure, as described by the patron-client model, with members 'glued' together by ethnic, regional, cultural or economic ties. Some criminal groups may even combine elements of both and have, for example, a hierarchical structure at some levels with a more fluid network structure at the lower levels⁸⁵. What is clear is that 'organised crime' does not involve just one type of group with one type of structure; a variety of organisational formats can be used to participate in 'organised crime', and it is rational that a criminal group will employ a structure that is best designed to carry out its purposes.

This rationality may explain why, since the 1990s (at least), a more general or broad term has started to appear in the organised crime research, as more and more studies have focussed on the 'network' structure of criminal groups and associations⁸⁶. For criminal groups, networks are beneficial as they are less likely (than hierarchies, for example) to attract attention and can be disassembled and then reassembled quickly and in different forms⁸⁷. During the 1990s and 2000s, therefore, the description of 'network' came to be included in a number of definitions of 'organised crime'⁸⁸. However, this may not aid clarity as Varese, for example, argues that network perspectives conceptualise 'organised

⁸⁴ Patricia A. Adler, *Wheeling and Dealing: An Ethnography of an Upper-Level Drug Dealing and Smuggling Community*, New York, Columbia University Press, 1985, p. 82.

⁸⁵ Phil Williams and Ernesto U. Savona (eds.), *The United Nations and Transnational Organized Crime*, London and Portland, Oregon, Frank Cass & Co. Ltd., 1996, p. 4.

⁸⁶ Varese, *op. cit.*, p. 7, citing Gary W. Potter, *Criminal Organizations: Vice, Racketeering, and Politics in an American City*, Prospect Heights, IL, Waveland Press, 1994; James O. Finckenauer and Elin J. Waring, *Russian Mafia in America: Immigration, Culture and Crime*, Boston, North Eastern University Press, 1998; N. Coles, 'It's not *what* you know – it's *who* you know that counts: Analysing serious crime groups as social networks', *British Journal of Criminology*, Vol. 41, No. 4, 2001, pp. 580-594; Klaus von Lampe, 'Criminally exploitable ties: A network approach to organized crime' in Emilio C. Viano, José Magallanes and Laurent Bidel (eds.), *Transnational Organized Crime: Myth, Power and Profit*, Durham, NC, Carolina Academic Press, 2003, pp. 9-22; Edmund Chattoe and Heather Hamill, 'It's not *who* you know – It's what you know about people you *don't* know that counts', *British Journal of Criminology*, Vol. 45, No. 6, 2005, pp. 860-876.

⁸⁷ Rawlinson, *op. cit.*, p. 331.

⁸⁸ According to Varese, 'network' appeared in 3.4 per cent of the definitions from the 1990s that he reviewed, and in 5.2 per cent of the definitions from the 2000s. See Varese, *op. cit.*, p. 7.

crime' too broadly⁸⁹. Similarly, Levi emphasises that it is not always clear what is meant by the terms 'network' or 'networking'⁹⁰. The literature review of upper-level drug trafficking undertaken by Dorn *et al*⁹¹, for example, indicates that there would appear to be at least three common uses for the term 'network'. Firstly, the term is sometimes used as a way of describing the structure and/or everyday workings of the market as whole – that is, through networking, traffickers construct the market. Secondly, the term is sometimes used as a way of describing drug markets as being made up of independent small groups or individuals. Thirdly, the term is sometimes used as a way of referring to the durability or otherwise of criminals' organisational and other arrangements, when these are seen as ever-changing and impermanent⁹².

Thus, the hierarchical model and the patron-client model (and, in some cases, the network perspective), although distinct and contrasting in their descriptions of the organisation of criminal groups (particularly in terms of their structures), have all emerged from a tendency to define and understand 'organised crime' by focussing on the groups involved in it and, in some cases, from attempts to understand particular groups (such as the American Mafia, as seen above). However, (and assuming that the data was available to do so) it is difficult to understand the entirety of 'organised crime' if we just look at one group, or a few, and formulate a definition based on its particular characteristics, structure and functions. Clearly, 'organised crime' groups are likely to differ in these respects. Although we can learn a lot by analysing individual groups, we cannot, for example, compare the so-called Colombian cartels and the Russian mafias, or even the *Camorra* and *Ndrangheta* (both Italian 'organised crime' groups) and formulate a definition of 'organised crime' from this, in the same way that we cannot (to use Haller's terminology⁹³) compare apples and oranges. Therefore, an alternative approach to understanding 'organised crime' will now be considered.

The 'what' question – what does 'organised crime' do?

Turning now to the 'what' question, other academic definitions focus on the activities, rather than the groups, involved in 'organised crime' and it is argued here that this approach will help us to better understand the specific type of 'organised crime' that flourishes in Spain. Indeed, Smith argues that this approach, generally, is a better 'entry

⁸⁹ *Ibid.*, p. 13.

⁹⁰ See Michael Levi, 'Organized Crime and Terrorism' in Mike Maguire, Rod Morgan and Robert Reiner (eds.), *The Oxford Handbook of Criminology*, 4th edition, Oxford, Oxford University Press, 2007, pp. 788-789.

⁹¹ N. Dorn, M. Levi and L. King, *Literature review on upper level drug trafficking*, Home Office Online Report 22/05, Home Office Research Development and Statistics Directorate, UK, 2005.

⁹² *Ibid.*

⁹³ See Haller, *op. cit.*, p. 57.

point' for an understanding of 'organised crime'⁹⁴. He focuses on the distinction between the *events* called organised crime (the activities, or the 'what' question) and the *people* called organised crime (the groups, or the 'who' question) and contends that the distinction is 'critical':

The observer who looks first at events and then at the persons associated with them is more likely to adopt a scientific, value-free and causal analytic style. The observer who defines a universe by the people it contains is more prone to bias and to nontestable assumptions – in short, to conclusions that are based more on ideology than on logic.⁹⁵

In relation to the activities involved in 'organised crime', Varese's content analysis of 115 definitions of 'organised crime' shows that references to 'enterprise' started to appear in definitions in the 1970s and have continued to grow in subsequent decades⁹⁶. In fact, from around this time, we can identify the emergence of an enterprise model of organised crime in academic publications, which emphasises the business dimension of 'organised crime' and describes how economic concerns and considerations are the primary causes of criminal behaviour. From this perspective, it is economic relationships, rather than personal ones (no matter whether they are based on hierarchy or ethnicity), that form the basis of 'organised crime' activity⁹⁷. This model is probably most associated with Smith, who developed a 'spectrum-based theory of enterprise'⁹⁸ to show that criminal groups have the same objectives and form in the same ways as legitimate businesses. As Williams and Godson explain:

There is a continuum of business enterprises from licit firms which engage solely in licit businesses, through licit firms which sometimes act in illicit ways, to illicit firms which operate in illegal markets and provide prohibited or highly regulated goods and services. [...] wherever enterprises fall on the licit-illicit continuum they behave in essentially similar ways [...].⁹⁹

Therefore, although 'organised crime' groups (or 'criminal enterprises') and legitimate businesses possess different characteristics and deal in different types of commodity, the former essentially mirrors the latter because, for example, both rationally search for

⁹⁴ Smith, 'Wickersham to Sutherland to Katzenbach: Evolving an "official" definition for organized crime', *op. cit.*, pp. 135-154.

⁹⁵ *Ibid.*, p. 136.

⁹⁶ Varese, *op. cit.*, p. 7.

⁹⁷ See Albanese, *op. cit.*, pp. 83-84.

⁹⁸ See Albanese, *op. cit.*, p. 83; Dwight C. Smith, 'Organized Crime and Entrepreneurship', *International Journal of Criminology and Penology*, Vol. 6, 1978, pp. 161-177; Dwight C. Smith, 'Paragons, Pariahs, and Pirates: A Spectrum-Based Theory of Enterprise', *Crime and Delinquency*, Vol. 26, 1980, pp. 358-386; Dwight C. Smith, *The Mafia Mystique*, Revised edition, Lanham, MD, University Press of America, 1990; Smith, 'Some Things That May be More Important to Understand about Organized Crime than Cosa Nostra', *op. cit.*; Smith, 'Wickersham to Sutherland to Katzenbach: Evolving an "Official" Definition for Organized Crime', *op. cit.*, pp. 135-154.

⁹⁹ Phil Williams and Roy Godson, 'Anticipating Organized and Transnational Crime', *Crime, Law & Social Change*, Vol. 37, 2002, p. 324.

opportunities to maintain and extend their share of the market and both seek to maximise their profits by responding to the needs and demands of suppliers and customers¹⁰⁰.

From an enterprise perspective, therefore, which (instead of focussing on actors) generally focuses on the activities involved in 'organised crime' (and, more specifically, on the business activities), certain types of 'organised crime' behaviour are emphasised, which can be categorised as follows:

The provision of illicit goods

Some criminal groups are involved in providing goods that some segments of society desire but cannot easily acquire because the goods are illegal or regulated. Predominantly, this includes all kinds of drugs but could also, for example, include arms and nuclear material, and certain flora and fauna.

The provision of licit goods that have been acquired through illicit means

Some criminal groups are also involved in providing goods that are acquired through theft (such as stolen vehicles or antiquities) and through fraud (such as a whole range of counterfeit products, from documents and credit cards to DVDs). Some members of the public also wish to purchase goods (such as cigarettes and alcohol) at the lowest possible price. Likewise, some criminal groups provide these goods, which in themselves would be licit had they not been acquired through tax evasion and smuggling.

The provision of illicit services

Albanese, like others, highlights that some criminal groups are also involved in satisfying the public's demand for money (through loan sharking¹⁰¹), sex (through prostitution) and gambling (other than that which is permitted by the state), which legitimate society does not fulfill¹⁰². Other examples in this category could include a criminal group's involvement in illegal toxic waste dumping, or its involvement in illegally transporting people who want, or need, to be somewhere else.

As a provider of goods and services, then, Rawlinson argues that 'organised crime' can be seen as 'primarily a *reactive* phenomenon, exploiting gaps in a diverse and lucrative market'¹⁰³ whose clientele are either "ordinary" folk who seek, or are forced to seek, alternative routes to satisfying needs unmet or proscribed by the legislatures of the

¹⁰⁰ See *ibid.*; Albanese, *op. cit.*, p.83

¹⁰¹ Albanese defines loan sharking as 'the lending of money to individuals at an interest rate in excess of that permitted by law'. See Albanese, *op. cit.*, p. 5.

¹⁰² *Ibid.*

¹⁰³ Rawlinson, *op. cit.*, p. 326.

countries they inhabit or pass through¹⁰⁴, or are victims 'obliged or enticed into cooperation, as in the trafficking of women and children'¹⁰⁵.

The findings of the research undertaken for this thesis show that the kinds of activities categorised above (the provision of various illegal goods and services and/or the provision of licit goods acquired through illicit means) accurately reflect the types of criminal activity occurring in Spain (and the type of criminal activity with which this thesis is concerned). What follows, therefore, is detailed discussion of some of the findings of this research relating to the predominant forms of criminal activity in Spain, which will serve to demonstrate this point.

The forms of criminal activity in Spain

Drug trafficking

Although the nature of the illicit activities undertaken in Spain is wide ranging, drug trafficking certainly appears to be one of the most significant activities and this is reflected in the statistics relating to seizures. Indeed, in 2006, 45 per cent of the cannabis resin and seven per cent of the cocaine seized in the world was seized in Spain (since 2001, Spain has consistently recorded either the third or fourth largest annual cocaine seizures at the global level, typically following Colombia and the United States), and Spain continued, in 2006, to seize the largest amount of cocaine in Europe (a record 50 tonnes, which accounted for 41 per cent of all such seizures in Europe)¹⁰⁶. Furthermore, in 2005, Spain also occupied the twelfth position in the world ranking for ecstasy seizures and thirty-seventh position in terms of global heroin seizures¹⁰⁷ (perhaps it is not surprising, then, that a recent study found traces of 'drugs in the air', quite literally, in the cities of Madrid and Barcelona, for example¹⁰⁸). Although impressive seizure rates may be attributed to improving interception methods, they may also be indicative of an increased supply of drugs into Europe in recent years and, as such, can reflect the important role that Spain plays in drug trafficking in the continent¹⁰⁹.

¹⁰⁴ *Ibid.*, p. 326, citing G. Caiden, 'Perspectives on organized crime' in H. Alexander and G. Caiden (eds.), *The Politics of Organized Crime*, Massachusetts, Lexington, 1985.

¹⁰⁵ Rawlinson, *op. cit.*, p. 326, citing J. Goodey, 'Whose insecurity? Organized crime, its victims and the EU' in A. Crawford, *Crime and Insecurity*, Cullompton, Willan Publishing, 2002.

¹⁰⁶ See United Nations Office on Drugs and Crime (UNODC), *2008 World Drug Report*, Vienna, UNODC, 2008, http://www.unodc.org/documents/wdr/WDR_2008/WDR_2008_eng_web.pdf [accessed 12/11/08].

¹⁰⁷ See European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) (and Ministerio de Sanidad y Consumo (Delegación del Gobierno para el Plan Nacional sobre Drogas)), *National Report 2007: Spain*, Madrid, Delegación del Gobierno para el Plan Nacional sobre Drogas, October 2007, <http://www.emcdda.europa.eu/html.cfm/index61189EN.html> [accessed 10/11/08].

¹⁰⁸ See, for example, 'Drugs in the air in Madrid and Barcelona', *typicallyspanish.com*, 15/05/09, http://www.typicallyspanish.com/news/publish/article_21389.shtml [accessed 17/05/09].

¹⁰⁹ Zaitch, for example, makes this point in relation to cocaine. See Damián Zaitch, *Trafficking Cocaine: Colombian Drug Entrepreneurs in the Netherlands*, The Hague, Kluwer Law International, 2002.

The case of Galicia shows how drug trafficking has become particularly established in that region. Here, drug trafficking activities have evolved from a tradition of smuggling, which perhaps dates back to the time of the Civil War (1936-1939)¹¹⁰. Traditionally, smuggling involved products such as food, medicine, clothing, minerals, illegal alcohol and, mainly, tobacco¹¹¹, which earned the smugglers reputations as public benefactors, giving them prestige and arousing the admiration of the local population¹¹². Tempted by the profits to be made, however, Galicia's smuggling groups, known as 'clans'¹¹³, gradually moved from the smuggling of socially acceptable commodities to more ominous activities. During the 1960s, having discovered the benefits of American tobacco, Galicia's smugglers were already starting to deal with other criminal organisations dedicated to this activity and beginning to employ money laundering techniques, and they were also expanding their distribution networks into the rest of Spain¹¹⁴. Later, and using the existing traditional smuggling structures, they also expanded into the trafficking of drugs¹¹⁵ and, during the 1980s, Galicia's smugglers embarked upon a long-lasting (but, sometimes, shaky) relationship with the Colombian cocaine cartels. This relationship evolved in light of the increasing saturation of the North American cocaine market. Because of this, the clans in Galicia held the key to something that the Colombians badly wanted: the unexploited European market. In return, the Colombians could offer a product that would phenomenally increase the profits of Galicia's gangs¹¹⁶ and, at this time, Galicia's smugglers were in search of a new business venture. One of the interview sources, for example, related how the price of their smuggled tobacco had been lowered by the introduction of fake American cigarettes into Europe (by Eastern European smugglers), which forced the local smugglers to again search for more profitable activities¹¹⁷. Subsequently, during the mid 1980s, two large police operations against illegal tobacco smuggling were carried out in Galicia. A large number of people were arrested in these operations and imprisoned¹¹⁸.

¹¹⁰ Carlos Resa-Nestares, 'Transnational Organized Crime in Spain: Structural Factors Explaining its Penetration' in Emilio C. Viano (ed.), *Global Organized Crime and International Security*, Aldershot, Ashgate Publishing Ltd., 1999, p. 53.

¹¹¹ See, for example, *ibid.*. This point was also raised during Interviews J1 and M1.

¹¹² See Resa-Nestares, *op. cit.*, pp. 53-54.

¹¹³ Interview J2. According to Gómez-Céspedes and Stangeland, these groups are structured in hierarchical clusters. See Alejandra Gómez-Céspedes and Per Stangeland, 'Spain: The Flourishing Illegal Drug Haven in Europe' in Cynille Fijnaut and Letizia Paoli (eds.), *Organised Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*, Dordrecht, The Netherlands, Springer, 2004, p. 399.

¹¹⁴ See Resa-Nestares, *op. cit.*, p. 53.

¹¹⁵ Interviews P1, P3 and P17.

¹¹⁶ Resa-Nestares, *op. cit.*, p. 54; Observatoire Géopolitique des Drogues (OGD), 'Spain: Drug Gateway to Europe', *The World Geopolitics of Drugs 1998/1999 Annual Report: IV. Europe*, April 2000, p. 89, http://www.ogd.org/2000/en/ogd99_4en.pdf [accessed 24/07/02]. See also Jennifer Sands, 'Exploring Transnational Organised Crime in the Age of Globalisation: A Case Study of the Colombian Cartels and Russian Mafias in Spain', *Grotius*, No. 1, 2004, pp. 93-108.

¹¹⁷ Interview M1.

¹¹⁸ During interview M1, it was stated that more than 300 people were arrested in each of these operations.

According to the interview source, whilst in prison, Galicia's smugglers met, and formed alliances, with Colombian traffickers and, thus, the new relationship was formed¹¹⁹. From then on, Galicia became one of the main points of entry of cocaine into Europe¹²⁰ and the involvement of Galicia's smugglers in this trade has continued to this day¹²¹, reaching unprecedented heights in the late 1990s¹²².

According to several sources, it seems that cocaine trafficking operations initially worked in the following way: the Colombian traffickers would convey the cocaine to Central America¹²³ or the Caribbean¹²⁴, where it would be picked up by Galicia's smugglers and trafficked into Spain (more recently, West Africa has emerged as a regional transit hub for the trafficking of cocaine to Spain)¹²⁵. Ships, flying flags of third countries, would transport the cocaine across the Atlantic and then it would either be collected in the high seas and brought to Galicia's craggy shores by fishing vessels or speedboats (known as *planeadoras*), or the ship would dock at one of Galicia's ports and the drug consignment would be unloaded together with other merchandise that served as a front¹²⁶. It seems that the Colombian traffickers and Galicia's smugglers would then each claim 50 per cent of the merchandise¹²⁷. The smugglers of Galicia would distribute their share mainly throughout the Spanish market and the Colombians' share would move on to the European market (and, as the distribution networks were different, no conflict would arise between the two parties)¹²⁸. In subsequent years, however, it seems that the business relationship between Colombian traffickers and Galicia's clans may have changed. For example, there is some evidence that Colombian traffickers are no longer working with their partners in Galicia to the same extent. In 2001, the Center for Geopolitical Drug Studies (Association d'Etudes

¹¹⁹ Interview M1.

¹²⁰ Resa-Nestares, *op. cit.* p. 54; OGD, *op. cit.*, p. 89; Giles Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, London, Faber and Faber Limited, 2006, p. 379. The statement: 'all the cocaine from Colombia enters here', made during interview P3, may be a little exaggerated, however.

¹²¹ During Interview M1, it was claimed that, currently, cocaine was 'in the hands of 2, 3 or 4 organisations in Galicia'.

¹²² OGD, *op. cit.*, p. 89.

¹²³ *Ibid.*, p. 91.

¹²⁴ Center for Geopolitical Drug Studies (Association d'Etudes Géopolitiques des Drogues (AEGD)), 'Spain: The New Route of Colombian Traffickers', *Geopolitical Drug Newsletter*, No. XX, July/August 2001, p. 1, <http://www.geodrugs.net/mini-lettres/AEGD5GB.pdf> [accessed 24/07/02].

¹²⁵ See, for example, European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), *Annual Report 2008: The State of the Drugs Problem in Europe*, Luxembourg, Office for Official Publications of the European Communities, 2008, p. 59, <http://www.emcdda.europa.eu/publications/annual-report/2008> [accessed 10/11/08] and Council of the European Union, 'Regional report on West Africa' (from the French chair of the West Africa subgroup to the Dublin Group), 5180/09, Brussels, 12/01/09, <http://register.consilium.europa.eu/pdf/en/09/st05/st05180.en09.pdf> [accessed 03/02/09].

¹²⁶ See Resa-Nestares, *op. cit.*, p. 54; OGD, *op. cit.*, p. 90. Note, this description of the trafficking operations is also included in Sands, *op. cit.*, p.96.

¹²⁷ See Resa-Nestares, *op. cit.*, p. 54; OGD, *op. cit.*, p. 91, AEGD, *op. cit.*, p. 1; Sands, *op. cit.*, p. 96; Library of Congress, *Nations Hospitable to Organized Crime and Terrorism*, Washington D. C., Federal Research Division, Library of Congress, October 2003, p. 141, http://www.loc.gov/rr/frd/pdf-files/Nats_Hospitable.pdf [accessed 09/06/08].

¹²⁸ Resa-Nestares, *op. cit.*, p. 54.

Géopolitiques des Drogues (AEGD)) reported that, since 2000, Colombians have tended to control the importation of cocaine into Spain themselves¹²⁹, and police estimates showed that the Colombians controlled, without intermediaries, 70 per cent of the cocaine smuggled into Spain in 2001, forcing the Spaniards into subordinate roles¹³⁰. This 'growing gap' between organisations appears to have developed in 1992, when one of Galicia's clans claimed it had 'lost' a large shipment of cocaine; a story that the Colombians did not believe¹³¹. Furthermore, in addition to a growing distrust on the part of the Colombians, the volume of business between the two organisations also reduced as a consequence of the arrests of a number of Galicia's major smugglers. It is therefore thought that Colombians are using new routes, increasingly smuggling cocaine through the Strait of Gibraltar and along the Mediterranean coast, for example¹³² (although Resa-Nestares believes that the Colombians have always had a two-pronged attack, using both the Atlantic and Mediterranean sea routes¹³³, as well as establishing contacts in other coastal regions of northern Spain¹³⁴).

Nevertheless, despite these changes in the business relationship between the Colombian traffickers and their counterparts in Galicia, some cocaine continued to transit through Galicia (and it still does). In addition to cocaine from Colombia (which still remains Spain's largest supplier of cocaine¹³⁵), one interview source stated that the drug also reaches Galicia from Venezuela, Brazil, Bolivia and other South American countries¹³⁶. However, several sources emphasised the fact that Galicia's smugglers are merely the distributors or transporters of cocaine¹³⁷: they 'do not own the cocaine'¹³⁸, they are a 'link in the chain' involved in getting the drugs 'off the boat and into Spain'¹³⁹ and, these days, it seems more likely that, for their part in these operations, Galicia's traffickers receive

¹²⁹ AEGD, *op. cit.*, p. 1; Center for Geopolitical Drug Studies (Association d'Etudes Géopolitiques des Drogues (AEGD)), 'Galician Traffickers Change Tack', *Geopolitical Drug Newsletter*, No. 1, October 2001, p. 8, <http://www.geodrugs.net/mini-lettres/AEGD6GB.pdf> [accessed 24/07/02].

¹³⁰ AEGD, 'Spain: The New Route of Colombian Traffickers', *op. cit.*, p.1.

¹³¹ This resulted in the murder of the treasurer of the Chamber of Commerce of Vilagarcía de Arousa (Pontevedra) (who belonged to the gang in Galicia) by a team of Colombian hired killers. See *ibid.*

¹³² *Ibid.* and AEGD, 'Galician Traffickers Change Tack', *op. cit.*. The Council of the European Union confirms that Morocco, for example, has recently become an entry channel for Latin American cocaine, which would appear to support this trend. See Council of the European Union, 'Regional report for North Africa' (from the Spanish regional Chair of the Dublin Group to the Dublin Group), 5280/09, Brussels, 13/01/09, p. 12, <http://register.consilium.europa.eu/pdf/en/09/st05/st05280.en09.pdf> [accessed 28/01/09].

¹³³ Resa-Nestares, *op. cit.*, p. 54.

¹³⁴ *Ibid.*, p. 48.

¹³⁵ See United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *2008 International Narcotics Control Strategic Report, Volume I: Drug and Chemical Control*, March 2008, p. 503, <http://www.state.gov/documents/organization/100890.pdf>, [accessed 19/09/08].

¹³⁶ Interview M1.

¹³⁷ This point was raised during interviews M2, P15 and P17, for example.

¹³⁸ Interview M1.

¹³⁹ Interview J1.

(depending on the source) either 25-27 per cent¹⁴⁰, or up to 30 per cent¹⁴¹, or one-third¹⁴² of the consignment's worth in either money or cocaine (with cocaine being the preferable option because the local clans can then sell the drug on to other organisations and make more profit by mixing the drug with other substances¹⁴³). The remainder of the drug consignment (which belongs to the South American (mainly Colombian) traffickers) is hidden on the coast of Galicia before being transported to Madrid, where Colombians sell it to other criminal groups, who then move it throughout Europe¹⁴⁴. Indeed, according to some of the interview sources, the South American criminals involved in these transactions tend not to be based in Galicia. Rather, they are based in Madrid, or travel into Spain from their countries of origin and straight out again¹⁴⁵. Apparently, in recent years, there has been less of a need for South American criminals to be based in Spain because many of the drug trafficking operations are now being set up by South American 'intermediaries' (who live in Spain, but do not attract the attention of the police because they live as legal citizens and own legitimate businesses such as hotels and restaurants), and it is now common practice for a *sicario* (hired assassin) to travel to Spain from South America and carry out his business in just a day, should the need arise¹⁴⁶.

The problems that Galicia's clans have encountered with the Colombians have forced them to diversify too. In recent years, and also following the tightening of police controls in Galicia, Portugal emerged as an alternative cocaine entry point¹⁴⁷. As a result, Galicia's smugglers entered into new agreements and joint ventures with Portuguese traffickers¹⁴⁸ and relocated some of their 'financial setups' to the north of that country¹⁴⁹. Furthermore, it has also been argued that Galicia's smugglers have diversified their product range, and that their dependency on hashish and heroin smuggling has increased in recent years¹⁵⁰. The AEGD, for example, presents some examples of recent police operations

¹⁴⁰ Interview M1. See also Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 380; Tony Thompson and Giles Tremlett, 'Ruthless, rich and bloody: now Europe's most vicious drug lords target Britain', *guardian.co.uk*, 12/06/05, <http://www.guardian.co.uk/news/2005/jun/12/internationalnews> [accessed 10/12/08]; and José María Irujo, 'La gran marea blanca', *El País: Domingo*, 25/01/04, p. 3, quoting José Antonio Vázquez Tain, (at the time) a judge in Vilagarcía de Arousa (Pontevedra).

¹⁴¹ Giles Tremlett, 'Ruthless heirs of cocaine trade tighten their grip on a smugglers' paradise', *The Guardian*, 16/02/06, p. 23.

¹⁴² Interview J1.

¹⁴³ Interview M1.

¹⁴⁴ *Ibid.*

¹⁴⁵ Interview J1.

¹⁴⁶ Interview M1. See also Irujo, *op. cit.*, p. 3, quoting José Antonio Vázquez Tain, (at the time) a judge in Vilagarcía de Arousa (Pontevedra).

¹⁴⁷ AEGD, 'Galician Traffickers Change Tack', *op. cit.*

¹⁴⁸ *Ibid.* See also Library of Congress, *op. cit.*, pp.141-142. This point was also identified in questionnaire QL.

¹⁴⁹ OGD, *op. cit.*, p. 90.

¹⁵⁰ See, for example, AEGD, 'Galician Traffickers Change Tack', *op. cit.*; Library of Congress, *op. cit.*, p.141.

involving heroin seizures in Galicia¹⁵¹ and points to the fact that, during 2000, the amounts of heroin hauled in Galicia grew from one per cent to seven per cent of the total heroin seizures in Spain¹⁵². Furthermore, the Spanish Civil Guard has uncovered strong ties between some of Galicia's smugglers and Moroccan hashish traffickers¹⁵³. It is worth stating, however, that although cocaine has undoubtedly been the principal drug associated with the clans of Galicia, some traffickers from the region have been involved with hashish and/or heroin for some years. Resa-Nestares, for example, argues that smugglers from Galicia have been associated with Moroccan hashish traffic 'for some time' (the normal route of entry for this drug being in fishing boats from Galicia, which fish off the Moroccan coast) and that smugglers from Galicia entered into a relationship with Turkish heroin groups, and began to deal in this drug, at the end of the 1980s¹⁵⁴. Some of the interview sources also confirmed that both heroin and hashish were trafficked into Galicia, albeit to a lesser extent than cocaine¹⁵⁵, and a look at some more recent data confirms that heroin trafficking (in some cases, involving Turkish individuals) is still occurring in the south of Pontevedra province, for example¹⁵⁶. However, new trends are revealed in the cases of hashish and cocaine. In respect of hashish, recent investigations show that smugglers from Galicia, who are dedicated to the large-scale (sea) traffic of this substance, have changed the centre of their operations to the Mediterranean coast¹⁵⁷. Indeed, data for 2006 shows the practical 'disappearance' of Galicia in the records of prominent operations against hashish¹⁵⁸. As a result, it appears that hashish now arrives in Galicia by road, smuggled in vehicles that travel on the Portuguese motorway between Huelva (Andalucía) and Pontevedra¹⁵⁹. In respect of cocaine, however, it seems that large quantities of this

¹⁵¹ For example, in May 2001, a 100-kilogram shipment of Turkish heroin was confiscated from a trailer in O Porriño (Pontevedra) and, in May 2000, a trafficking ring from Galicia was destroyed while it was receiving 100 kilograms of heroin from Turkey. See AEGD, 'Galician Traffickers Change Tack', *op. cit.*

¹⁵² *Ibid.*

¹⁵³ United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *op. cit.*, p. 504.

¹⁵⁴ See Resa-Nestares, *op. cit.*, pp. 54-55.

¹⁵⁵ Interviews M1 and P1, for example.

¹⁵⁶ In some cases, the heroin is distributed in Portugal. See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I)*, Madrid, 2007, p. 709,

http://www.fiscal.es/cs/blob/V1_CAP3.pdf?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1109248280982&ssbinary=true [accessed 07/09/08]. This point was also made by the professional interviewed in interview P17.

¹⁵⁷ See *ibid.*

¹⁵⁸ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I)*, Madrid, 2007, p. 179,

http://www.fiscal.es/cs/blob/V1_CAP2.pdf?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1109248280967&ssbinary=true [accessed 18/08/08].

¹⁵⁹ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I)*, *op. cit.*, pp. 709-710.

drug are, once again, entering Galicia. The Spanish Attorney General's 2007 annual report, for example, details how the entry points for cocaine, which had previously been displaced to Portugal, were returning to the region (as well as to the south of the Peninsula), due to the seizure of large quantities of the drug during various operations carried out by the Portuguese police at the beginning of 2006¹⁶⁰. Indeed, some major seizures made during the summer of 2008 are viewed as confirmation of the fact that criminal organisations are increasingly operating, once again, in Galicia and using the Ría de Arousa (and other estuaries) to carry out their disembarkations of cocaine¹⁶¹.

In order to fully understand the extent of the criminal activity undertaken in Galicia, it is important to emphasise the sheer scale of the drug trafficking business carried out there, which can only be partly illustrated by the numerous seizures made by the authorities and reported in the Spanish press in recent years. During 2003, for example, the Spanish authorities managed to intercept a number of vessels in the Atlantic that were, inevitably, heading towards the coasts of Galicia or Portugal with their loads of cocaine: a total of 37,400 kilograms of the drug was seized in the course of 15 operations, which resulted in 116 arrests¹⁶². More recently, some important interventions during the first half of 2006, for example, included the tonne of cocaine found in a van on the AP-9 motorway; the half tonne, and later 800 kilograms, of cocaine seized respectively in the port of Vigo; the cargo of more than one tonne of cocaine, worth 30 million euros, seized on the vessel 'Nadia'; and the 180 kilograms of cocaine, on its way to Galicia from Portugal, which formed part of a consignment of six and a half tonnes¹⁶³. It was at the end of 2006, however, when Spanish police successfully carried out what they considered to be their 'most important' operation for seven years¹⁶⁴. During *Operación Destello*, police intercepted, at sea, a cargo of 1,800 kilograms of cocaine (ultimately, heading for the coast of Galicia) and interrupted the introduction into Spain of another 4,000 kilograms. The 34 people that

¹⁶⁰ *Ibid.*, p. 709. This point was also made by the professional interviewed in interview P17.

¹⁶¹ In just two weeks of August 2008, for example, police seized nearly five tonnes of cocaine and, between June and the beginning of September 2008, a total of 9,500 kilograms of cocaine were seized. See Elisa Lois, 'La policía refuerza la vigilancia en la costa para frenar la entrada de droga', *elpais.com*, 20/08/08, http://www.elpais.com/articulo/Galicia/policia/refuerza/vigilancia/costa/frenar/entrada/droga/elpepiatgal/20080820elppal_6/Tes [accessed 20/08/08] and Elisa Lois, "Más que repunte del narcotráfico hay exceso de confianza en algunas bandas", (interview with the Anti-Drug Public Prosecutor of Pontevedra, Marcelo de Azcárraga Urteaga), *elpais.com*, 01/09/08, http://www.elpais.com/articulo/Galicia/repunte/narcotrafico/hay/exceso/confianza/algunas/bandas/elpepiatgal/20080901elppal_9/Tes/ [accessed 10/12/08].

¹⁶² See Irujo, *op. cit.*, pp. 1-3.

¹⁶³ See, for example, 'El hijastro de Oubiña lidera una banda de narcos muy poderosa', *elcorreogallego.es*, 02/05/06, <http://www.elcorreogallego.es/index.php?idNoticia=40234> [accessed 10/12/08]. Note that the word *tonelada* in Spanish literally translates as 'ton'. However, as it is assumed that this relates to a metric ton, when Spanish sources are translated in this thesis, the word 'tonne' is used to denote this.

¹⁶⁴ Elisa Lois, 'Un nuevo arresto eleva a 32 las detenciones de la 'Operación Destello'', *elpais.com*, 17/04/07, http://www.elpais.com/articulo/Galicia/nuevo/arresto/eleva/32/detenciones/Operacion/Destello/elpepuEspgal/20070417elppal_10/Tes [accessed 12/12/08].

were detained in the course of this operation (including some members of Galicia's most important clans) were believed to have formed part of the largest network of drug traffickers detected in Spain in recent years and one of the most important networks dedicated to the traffic of cocaine in Europe¹⁶⁵. Many more examples of drug seizures involving Galicia's traffickers could be given. However, according to some commentators, the volume of the drugs seized in these operations only tells part of the story, because much greater quantities are trafficked successfully. In 2005, for example, it was reported that Spanish customs officials believed that they only stopped less than ten per cent of the drug traffic into Galicia, and that at least five tonnes 'get through' every month¹⁶⁶. It is difficult to know whether this is true or not. Indeed, we must always be wary of the accuracy of estimated figures like this¹⁶⁷ and even, perhaps, of some of the figures relating to seizures – as van Duyne notes, in some cases, there is a tendency to 'dogmatically' multiple seizures by ten per cent¹⁶⁸. Nevertheless, it is clear the drug trafficking constitutes a significant proportion of the criminal activities undertaken in Galicia.

As in Galicia, the trafficking of drugs is also one of the most frequent types of criminal activity undertaken in the Costa del Sol region. Indeed, over the last few years, Andalucía has consistently topped the statistical tables concerning this matter. For example, between 1999 and 2004, the number of people arrested for drugs trafficking offences in Andalucía, year by year, was significantly higher than in any other autonomous community of Spain: 4,447 people were under arrest in 1999; 4,803 in 2000; 4,791 in 2001; 4,896 in 2002; 4,241 in 2003; and 4,019 in 2004¹⁶⁹. To compare, the autonomous communities with the next highest figures for 2004, for example, were: Valencia with 1,973 people under arrest; Madrid with 1,508 under arrest; Las Canarias with 1,206 under arrest;

¹⁶⁵ For details of this operation, see, for example, *ibid.*; Ministerio del Interior (MIR) (Dirección General de la Policía y de la Guardia Civil), 'La Policía Nacional detiene a cinco narcotraficantes en Madrid y Pontevedra en la segunda fase de la "Operación Destello', Nota de prensa, Madrid, MIR, 12/01/07, http://www.mir.es/DGRIS/Notas_Prensa/Policia/2007/np011205.htm; Julio A. Fariñas, 'La operación Destello desactiva la logística de carteles colombianos', *La Voz de Galicia*, 15/01/07, <http://www.lavozdegalicia.es/hemeroteca/2007/01/15/5456202.shtml>; 'La policía culmina la operación Destello con la detención de un miembro del clan de los Oubiña', *La Voz de Galicia*, 16/04/07, <http://www.lavozdegalicia.es/hemeroteca/2007/04/16/5722584.shtml> [all accessed 12/12/08]; and Cruz Morcillo, 'Las mafias marroquíes del hachís toman el relevo a los gallegos en el tráfico de cocaína', *abc.es*, 17/02/07, http://www.abc.es/hemeroteca/historico-17-02-2007/abc/Nacional/las-mafias-marroquies-del-hachis-toman-el-relevo-a-los-gallegos-en-el-trafico-de-cocaina_1631525320978.html [accessed 10/12/08].

¹⁶⁶ Thompson and Tremlett, *op. cit.*

¹⁶⁷ We should consider, for example, the reasons why the authorities involved are making public statements like this.

¹⁶⁸ Adam Edwards and Pete Gill, 'Crime as enterprise? The case of "transnational Organised crime"', *Crime, Law & Social Change*, 2002, p. 206, citing P. van Duyne, 'Money Laundering: links between the "underworld" and "upperworld"', Paper presented to the 3rd meeting of the UK's Economic and Social Research Council's Research Seminar Series on *Policy Responses to Transnational Organised Crime*, University of Cardiff, 05/04/00.

¹⁶⁹ See Elisa García España and Fátima Pérez Jiménez, *Seguridad Ciudadana y Actividades Policiales*, Informe del Observatorio de la Delincuencia en Andalucía 2005, Málaga, Instituto Andaluz Interuniversitario de Criminología and Fundación El Monte, 2005, p. 145.

and Cataluña with 1,124 under arrest¹⁷⁰. Furthermore, of the 11,015 known drug trafficking-related crimes committed in Spain in 2004, 2,797 of them took place in Andalucía, which again represents a much higher figure than in any other autonomous community (even though it was a decrease on the previous year's figure of 3,109 crimes)¹⁷¹. Additionally, despite a yearly fall in the number of judicial proceedings initiated for drug trafficking offences in Andalucía between 2002 and 2006¹⁷², this autonomous community yet again topped the statistics in this arena. For example, there were 6,301 judicial proceedings of this type initiated in Andalucía in 2006, whilst the statistics for the next five highest autonomous communities in this respect were: Cataluña with 2,871 proceedings; Las Canarias with 2,646 proceedings; Valencia with 1,148 proceedings; Murcia with 1,093 proceedings; and Madrid with 1,015¹⁷³. Also, in 2006, along with Las Palmas de Gran Canaria, Barcelona and Madrid, Málaga itself featured as one of the four provinces that had initiated the most judicial trials for drug trafficking crimes (a situation that appears typical of the preceding years also)¹⁷⁴.

Undoubtedly, hashish is the main (although not the only¹⁷⁵) drug trafficked in this area (Spain being both a consumption country and a transshipment area for this drug entering Europe as a whole¹⁷⁶). Although the claim by one interview source that 'all the hashish for Europe enters here'¹⁷⁷ may, perhaps, be a little exaggerated, it is clear that there has been a tradition for Moroccan hashish (particularly) to be introduced into Spain through Andalucía, typically using a whole range of sea vessels and boats¹⁷⁸. However, in his 2007 report, the Spanish Attorney General outlined an increasing tendency for traffickers to introduce this drug into other parts of Spain (such as Murcia, Valencia and

¹⁷⁰ *Ibid.*, p. 145.

¹⁷¹ See *ibid.*, p. 150.

¹⁷² The figures are: 9,262 proceedings in 2002; 8,352 proceedings in 2003; 8,334 proceedings in 2004; 6,577 proceedings in 2005; and 6,301 proceedings in 2006. See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit.*, p. 186.

¹⁷³ See *ibid.*, pp. 186-187.

¹⁷⁴ *Ibid.*, p. 187.

¹⁷⁵ For example, as discussed, cocaine is increasingly being introduced into Spain through the southern regions of the country. To illustrate, the Council of the European Union has recently reported that groups linked to the Italian mafias have been detected transporting large cocaine consignments by helicopter and small plane between points in northern Morocco and points in the south of Spain. See Council of the European Union, 'Regional report for North Africa', *op. cit.*, p. 12.

¹⁷⁶ See, for example, United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *op. cit.*, p. 503. Also interview J7.

¹⁷⁷ Interview P3.

¹⁷⁸ Interviews C1, C2, P1, P8 and P15. See also Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit.*, p. 179, p. 182, and p. 190 and United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *op. cit.*, pp. 503-504.

Cataluña), as well as France¹⁷⁹, as a result of the introduction of the *Sistema Integral de Vigilancia Exterior* (SIVE) (Integrated System of External Surveillance)¹⁸⁰ that affects the Gulf of Cádiz, the Strait of Gibraltar and the Alboran Sea, and also due to the fact that the same routes for hashish and cocaine are now being used by traffickers in some instances¹⁸¹. Nevertheless, in 2006, more than 50 out of 100 seizures of hashish in Spain were seized in Andalucía, which, again, was a significantly higher figure than in other autonomous communities: the figure for Andalucía was followed by that for Valencia (19 out of 100 seizures), then Murcia (14 out of 100 seizures), then Cataluña (7 out of 100 seizures), and another 7 out of 100 seizures took place in all of the remaining autonomous communities put together¹⁸². Moreover, the movement of hashish directly from Morocco to Andalucía, by sea, continues to be the most used route for traffickers of this drug, with the quantities of the drug trafficked rising each year (and usually exceeding 1,000 kilograms in each shipment)¹⁸³.

The trafficking of drugs also appears to be one of the most predominant types of criminal activity in Madrid. Between 2000 and 2004, for example, this autonomous community almost always retained third place in terms of the number of people arrested for drug trafficking offences – only in 2003 did Madrid drop to fourth place in this respect, with figures of: 2,080 people under arrest in 2000; 1,811 in 2001; 1,664 in 2002; 948 in

¹⁷⁹ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit.*, p. 179.

This issue was also raised during interviews P4, P8 and P12.

¹⁸⁰ SIVE is Spain's border surveillance system operated by the *Guardia Civil* (Civil Guard). Using a system of fixed and mobile sensors, including radars, video cameras, infrared cameras, and so on, its objective is to improve the surveillance of Spain's borders in order to respond to, and control, threats such as illegal immigration and drug trafficking. For example, the system carries information in real time to control centres, which convey the necessary orders for the interception of any vessel that approaches national territory from the sea (the system can detect vessels from a relatively long distance). The system operates in areas typically experiencing high incidences of illicit trafficking, including the coast of Andalucía, the Canary Islands and Ceuta and Melilla. However, it could be extended to the rest of Spain's national territory. See Guardia Civil (Oficina de Relaciones Informativas y Sociales), 'Sistema Integrado de Vigilancia Exterior (SIVE): Introducción', [no date], <http://www.guardiacivil.org/prensa/actividades/sive03/intro.jsp>; Guardia Civil (Oficina de Relaciones Informativas y Sociales), 'Sistema Integrado de Vigilancia Exterior (SIVE): Localización e Implantación', [no date], <http://www.guardiacivil.org/prensa/actividades/sive03/localizacion.jsp>; Guardia Civil (Oficina de Relaciones Informativas y Sociales), 'Sistema Integrado de Vigilancia Exterior (SIVE): Funciones y Capacidades Técnicas', [no date], <http://www.guardiacivil.org/prensa/actividades/sive03/funciones.jsp> [all accessed 05/09/08].

¹⁸¹ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit.*, p. 179. See also Council of the European Union, 'Regional report for North Africa', *op. cit.*, p. 10.

¹⁸² See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit.*, p. 179.

¹⁸³ *Ibid.*, p. 190. The Council of the European Union has recently reported that the Spanish authorities seized a total of almost 1,000 tons of hashish from Morocco alone up to November 2008, which could result in total of 1,200 tons by the end of that year: a figure that is unprecedented in recent years. See Council of the European Union, 'Regional report for North Africa', *op. cit.*, p. 11.

2003; and 1,508 in 2004¹⁸⁴. Moreover, as noted above, in 2006, Madrid featured as one of the four provinces that had initiated the most judicial trials for drug trafficking crimes¹⁸⁵. The trafficking of heroin seems to be particularly associated with the region. For example, in 2006, 44 per cent of the heroin seized in Spain (some 201 kilograms) was seized in Madrid, which represented a considerably higher amount than the quantities of heroin seized in other regions: the figure for Sevilla (27 per cent of heroin seizures or 122 kilograms) follows that for Madrid; Alicante (in the autonomous community of Valencia) registered 17 per cent of seizures (77 kilograms); three per cent of seizures (14 kilograms) were made in Huelva (in the autonomous community of Andalucía); and the remaining regions, taken together, accounted for nine per cent of the seizures (40 kilograms)¹⁸⁶. Moreover, the 28 kilograms of heroin seized by police in June 2008, which amounted to the largest apprehension of the substance made in Spain to that point in 2008, were seized in Madrid¹⁸⁷. The criminal groups active in Madrid also engage in the trafficking and distribution of cocaine and perhaps, even, also the processing of this drug. In 2008, for example, it was reported that police had discovered two cocaine 'laboratories' (one in an apartment in the capital city and the other in a luxury villa (or *chalé* in Spanish) in Fuente el Saz del Jarama (north of the capital))¹⁸⁸. As noted above, some of the cocaine that is trafficked into Galicia is then transported on to Madrid, yet cocaine also reaches this region by air, smuggled on commercial aircraft, which arrive at Barajas airport from Latin America, for example¹⁸⁹. It would appear that cocaine is smuggled by passengers using a variety of methods, which include hiding the drug inside items of hand luggage and suitcases (sometimes with false bottoms) or concealing it within clothes, shoes, cosmetic bottles and bottles of liquor or, alternatively, passengers will carry the drug in their bodies¹⁹⁰. Indeed, the 228 seizures of cocaine made at Spanish airports during the course

¹⁸⁴ See García España and Pérez Jiménez, *op. cit.*, p. 145.

¹⁸⁵ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I)*, *op. cit.*, p. 187.

¹⁸⁶ See *ibid.*, p. 184.

¹⁸⁷ It was reported that, in this operation, police broke up an organised group of drug traffickers that operated from La Cañada Real Galiana (a shantytown south of the city of Madrid). Along with the 28 kilograms of heroin, police also seized a number of firearms and 187,000 euros. Six people were arrested, including two people of Turkish origin (one from the supplying group, who headed the group in Spain, and a leader from the supplying group, who was in Spain to oversee the transaction). See Pérez, C., 'Cae el "híper" de la droga en La Cañada', *La Razón*, 25/06/08, p. 44.

¹⁸⁸ See 'Caen 5 narcos y dos "cocinas", una de ellas en un chalé', *ABC*, 16/04/08, p. 62.

¹⁸⁹ See, for example, Damián Zaitch, 'Recent Trends in Cocaine Trafficking in The Netherlands and Spain' in Dina Siegal, Henk van de Bunt and Damián Zaitch (eds.), *Global Organized Crime: Trends and Developments*, Dordrecht, Kluwer Academic Publishers, 2003, p. 16.

¹⁹⁰ See, for example, José L. Muñoz and N. de Cardenas, 'Barajas se está convirtiendo en el mayor punto de entrada de cocaína', *Qué! (Málaga)*, 17/11/05, p. 8; EFE, 'Ocultaba 4 kilos de cocaína en seis pares de zapatos', *Qué!*, 21/11/05, p. 13; and 'Intervienen 27 kilos de cocaína', *20 minutos (Madrid)*, 17/10/06, p. 4.

of 2006 were carried out primarily at the airports of Madrid and Barcelona¹⁹¹. Similarly, Barajas is one of the airports in Spain (along with airports in Barcelona, Palma de Mallorca and Islas Canarias (the Canary Islands)) where the highest volumes of traffic in MDMA¹⁹² have been detected¹⁹³, and Spain's *Fiscal General del Estado* (Attorney General) sees the use of air channels as being important in explaining why Madrid is an important location in terms of heroin seizures¹⁹⁴. Thus, the trafficking of several different kinds of drug is certainly a significant activity carried out in this area.

Other criminal activities and enterprises

Another criminal activity that groups in Spain frequently participate in is human trafficking/illegal immigration. This activity seems to be particularly associated with the Costa del Sol¹⁹⁵. People are typically smuggled into the coastal provinces of Andalucía by sea, using *pateras* (small dinghy-like boats) or pneumatic boats¹⁹⁶, often at great risk to the lives of those smuggled. Human trafficking is a problem that extends to all the coastal provinces of Andalucía, although, in recent years, it has especially affected the provinces of Almería, Málaga and Granada, again as a result of the intensity of police controls deployed in the western provinces of Andalucía through the SIVE system¹⁹⁷. Certainly, much of the traffic of this type appears to come from Morocco, using the Strait of Gibraltar and, according to some of the interview sources, involves North African smugglers¹⁹⁸. Indeed, information given by the *Fiscalía* (Public Prosecutor) of Granada details, for example, the

¹⁹¹ See *Fiscalía General del Estado, Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit.*, p. 182 and EMCDDA, *National Report 2007: Spain, op. cit.*, p. 187. The Bureau for International Narcotics and Law Enforcement Affairs of the United States Department of State has also reported that the airports in Madrid and Barcelona play expanding roles as the entry point for much of the cocaine trafficked into and through Spain. See United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *op. cit.*, p. 505.

¹⁹² That is, methylenedioxymethamphetamine or, more commonly, 'ecstasy'.

¹⁹³ Certain quantities of MDMA are trafficked into Spain by individuals posing as tourists on commercial flights. See EMCDDA, *op. cit.*, p. 188. The Bureau for International Narcotics and Law Enforcement Affairs of the United States Department of State also reports that airports in Madrid and Barcelona are transit points for passengers who intend to traffic ecstasy and other synthetic drugs, mainly produced in Europe, to the United States. See United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *op. cit.*, p. 505.

¹⁹⁴ See *Fiscalía General del Estado, Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit.*, p. 184. The point that drugs, generally, enter through Barajas airport was also made during interview J6, and the professional interviewed in interview P15 explained how 'enormous quantities' of drugs are seized at Barajas airport.

¹⁹⁵ Interview J2; questionnaires QH, QI, QJ and QK; and *Fiscalía General del Estado, Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit.*, p. 703.

¹⁹⁶ For example, for details of the number of interventions of such vessels in Granada province alone in 2006, see *Fiscalía General del Estado, Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit.*, p. 702.

¹⁹⁷ *Ibid.*

¹⁹⁸ Interview P2.

existence of organised networks, operating from the north of Morocco, which mostly dedicate their operations to the capture of families with minors, with the purpose of transferring them to Spain and subsequently introducing them into the social security system of the *Junta* (Government) of Andalucía (thus allowing them to receive significant amounts of money). There have been serious threats made to some families in Spain when they have not met the payments agreed with the criminal organisations¹⁹⁹. Other human trafficking networks operating in the Costa del Sol carry out their activities in order to supply illicit markets with labour, or for prostitution purposes. Some groups have been detected in this area, for example, that were trafficking Nigerian, Brazilian, Russian and Romanian women for their sexual exploitation in conditions close to slavery²⁰⁰. Indeed, illegal prostitution is commonly listed, both in official documents and by the interview and questionnaire sources, as one of the many activities that criminal groups in the Costa del Sol are involved in²⁰¹.

Organised prostitution has also been identified as an activity that is undertaken in Galicia²⁰², and criminal groups in Madrid are particularly associated with activities related to organised prostitution²⁰³. Prostitutes, of many different nationalities, are very visible in the streets and clubs of Madrid city, and there are certain areas in the Community where the concentration of prostitutes is particularly high. Casa de Campo, to the west of the capital, is one such area²⁰⁴. According to one of the questionnaire respondents²⁰⁵, the presence of a high number of prostitutes in a neighbourhood upsets the inhabitants of the area, who feel, for example, that the practice of prostitution poses a 'bad example' to their children. As a result, the authorities try to 'make life impossible for the prostitutes'²⁰⁶ and attempt to stop their activities in these areas. After some recent attempts to do this in Casa de Campo (by implementing traffic restrictions in the area), it was therefore thought that Madrid's prostitutes were being displaced to other areas in the Community, such as Fuenlabrada, Alcalá de Henares and Villaverde, yet there is evidence that prostitution still occurs in Casa

¹⁹⁹ See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit., p. 703.*

²⁰⁰ *Ibid.*

²⁰¹ See, for example, *ibid.* and Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit., p. 190.* Also interviews C2, J6, J8 and questionnaires QH, QI, QJ and QK.

²⁰² See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit., pp. 235-236.* Also interview P16 and questionnaires QE, QF and QL.

²⁰³ This issue was raised during interviews P1 and J6, as well as in the responses to questionnaires QB and QD, for example.

²⁰⁴ This was particularly mentioned by the professional interviewed in interview J6.

²⁰⁵ Questionnaire QD.

²⁰⁶ Questionnaire QD.

de Campo²⁰⁷. According to some of the professionals interviewed or questioned for this research, 'mafias' control the prostitutes in these areas, as well as in Madrid's streets and clubs²⁰⁸. The 2007 report of Spain's Attorney General also discusses the existence of 'organised' groups in Madrid (predominantly of Romanian and Eastern European origin²⁰⁹) whose aim is the sexual exploitation of non-Spanish women²¹⁰. These particular groups carry out their activities mainly in the areas close to the major roads that run through the Community, which are also the areas where numerous *clubes de alterne*²¹¹ can be found²¹². According to the Attorney General's report, the most frequent assumption is that these criminal groups introduce women (usually from Eastern Europe) into Spain by means of deception (for example, the women are offered work in Spain that is entirely unrelated to their later sexual exploitation)²¹³. Once in Spain, however, the criminal group retains the women's passports and demands a payment for their transfer to Spain²¹⁴. The women are also deceived regarding the processing of residence and work permits (which are needed to legalise their status in Spain), and they are kept in lodgings, deprived of their freedom of movement²¹⁵. Additionally, they can be continually moved from place to place, and threats can be made to their families in their country of origin²¹⁶. Ultimately, they are forced into prostitution. In 2006, in the Madrid region, legal proceedings relating to prostitution were initiated in some 35 cases²¹⁷. However, the circumstances surrounding the women (discussed above) often mean that victims are reluctant to cooperate in an investigation for fear of reprisals from the criminal group, or they fear that police officers involved in investigations will find that they are present in Spain illegally²¹⁸.

Another activity undertaken by criminal groups in Madrid is the theft and smuggling of luxury vehicles, particularly cars²¹⁹. Typically, it would appear that, after the cars are stolen, they are furnished with false number plates and documentation and then

²⁰⁷ See, for example, Luis Labarga, "No es mi problema adónde van", *El Mundo*: M2, 17/07/07, p. 4 and 'Las prostitutas huyen a Fuenlabrada y Alcalá', *Metro (Madrid)*, 17/07/07, p. 3.

²⁰⁸ Interview J6 and questionnaire QD.

²⁰⁹ The professional interviewed in interview P1 also stated that Eastern European groups were involved in activities related to prostitution in Madrid.

²¹⁰ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit., p. 712.*

²¹¹ The dictionary translation of *clubes de alterne* is typically 'singles clubs' or 'hostess clubs'. However, these establishments are, perhaps, best described as 'brothels'.

²¹² Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit., p. 712.*

²¹³ *Ibid.*

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*

²¹⁹ This point was raised during interviews P1 and P9, for example. See also Resa-Nestares, *op. cit.*, p. 52. For an example of a recent case involving police arrests for this type of activity, see 'Caen tres ladrones de coches de lujo', *El Mundo*: M2, 16/11/06, p. 7.

transported abroad to be resold²²⁰. Some sources associate these kinds of activities particularly with Eastern European criminals²²¹. Eastern European criminals were also often associated, particularly by some of the interview sources, with violent robberies on houses and industrial estates in Madrid²²². Activities related to credit card fraud and the counterfeiting of money, which may be 'related to organised crime', also appear to be undertaken frequently in this region²²³. Indeed, in September 2007, police in Madrid seized 403,000 forged euros (mostly in 200 Euro notes), which the press claimed was 'the largest cache of counterfeit notes' seized in Europe²²⁴. Also in the course of this so-called *Operación Danubio*, ten members of a criminal network, of Bulgarian and Romanian origin, that were living in Madrid and involved in the smuggling and distribution of the false notes, were detained²²⁵. Other criminal activities undertaken by groups in Madrid, which were variously identified by the interview and questionnaire sources, included (small-scale) arms trafficking, the smuggling of antiquities, people trafficking, extortion, protection and money laundering²²⁶.

In relation to other criminal activities carried out in Galicia, some of the interview sources stated that the trafficking of arms was possibly also carried out in the region²²⁷, and the possession of firearms in Ourense, for example, was mentioned in the Attorney General's 2007 annual report²²⁸. Furthermore, groups of Spanish citizens, which engage in violent robberies on banks, have been investigated by Galicia's specialised police unit, the *Grupo de Respuesta Especial para el Crimen Organizado* (GRECO) (Special Response Group for Organised Crime). These organisations are composed of criminals living in Galicia, who

²²⁰ See, for example, Resa-Nestares, *op. cit.* and 'Caen tres ladrones de coches de lujo', *op. cit.*

²²¹ For example, the professional interviewed in interview J4 associated Bulgarian criminals with the theft of cars, and Resa-Nestares claims that the stolen cars are transported by 'Russian or Polish mafia groups' to Eastern Europe. See Resa-Nestares, *op. cit.*. Also see 'Caen tres ladrones de coches de lujo', *op. cit.*

²²² The professional interviewed in interview P1, for example, associated 'Eastern Europeans' generally with these types of activities, and the professional interviewed in interview J4 specifically mentioned Romanian and Kosovo Albanian criminals when discussing this kind of crime. It became clear during the course of the research that many people in Spain (including police officers), as well as the press, would regard this kind of activity as constituting 'organised crime' and, when asked about the 'organised' criminal activities occurring in Madrid, the professionals interviewed in interviews P1, J4, J6 and P15 all included the violent robbery on houses and/or industrial estates as examples of 'organised' criminal activity in this region.

²²³ The professional interviewed in interview J4, for example, claimed that Romanian criminals were involved in credit card fraud in Madrid and, in the Attorney General's 2007 report, it was noted that the 77 cases involving the counterfeiting of money that were recorded in Madrid in 2006 could 'relate to activities of organised crime'. See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I)*, *op. cit.*, p. 711 (my translation).

²²⁴ See C. Hidalgo, 'Incautado el mayor alijo de billetes falsos y de "major calidad" de Europa', *ABC*, 05/09/07, p. 53 (my translation).

²²⁵ See *ibid.*; Pablo Herraiz, 'El mayor golpe contra el dinero falso', *El Mundo: M2*, 05/09/07, p. 2; and 'Cae una banda que falsificó 400.000 euros', *La Razón*, 05/09/07, p. 31.

²²⁶ Interviews P1, F2 and P9, and questionnaires QB and QD.

²²⁷ Interviews P2 and J1.

²²⁸ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I)*, *op. cit.*, p. 235.

carry out these crimes both in the region and elsewhere in Spain (as well as in Portugal)²²⁹. Similarly, GRECO has also investigated groups of Romanian, and Kosovo Albanian, criminals who travel to Galicia to undertake organised robberies²³⁰. According to the Attorney General, these can be seen as examples of organised groups that operate in Galicia on the margins of drug trafficking²³¹.

Other activities that have been identified as being undertaken in the Costa del Sol include cigarette smuggling²³², racketeering²³³, the robbery and smuggling of vehicles²³⁴, arms trafficking²³⁵, fraud and forgery²³⁶, the smuggling of fauna and flora²³⁷, organised robbery of domestic and industrial properties²³⁸ and money laundering on an extraordinary scale²³⁹ (which will be discussed more extensively later in this chapter). Finally, and to complete the picture of the types of illicit activities undertaken by groups in Spain, we can also add explosives trafficking, illegal gambling, extortion, kidnapping, intellectual property crimes and the trafficking of works of art and jewellery²⁴⁰. Thus, it is clear that 'organised' illegal activity in Spain is not confined to one particular type of enterprise or venture.

Haller notes that 'at the heart of what is often meant by organized crime are the types of enterprises that sell illegal goods and services to customers [...]'²⁴¹. The discussion above shows that this is a particularly accurate statement in the case of Spain: a consideration of the types of criminal activity that predominantly flourish there (drugs trafficking, human trafficking, organised prostitution, vehicle smuggling, fraud and counterfeiting, and so on) illustrates that we need to understand 'organised crime' in the

²²⁹ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit., p. 710.*

²³⁰ *Ibid.*. These groups/activities were also identified in questionnaire QL.

²³¹ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit., p. 710.*

²³² Interview C1. See also Resa-Nestares, *op. cit.*, p. 51.

²³³ Interview C2.

²³⁴ Questionnaires QH, QI, QJ, QK and interview P1. See also Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit., p. 703* and Resa-Nestares, *op. cit.*, p. 52.

²³⁵ Interview P3 and questionnaire QK.

²³⁶ Questionnaires QH, QJ and QK. See also Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit., pp. 195-196* and Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit., p. 703.*

²³⁷ Questionnaire QI.

²³⁸ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit., p. 703.*

²³⁹ See, for example, *ibid.* and Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit., p. 195.* Also questionnaires QG, QH, QI, QJ, QK and interviews F2 and J6.

²⁴⁰ *España. Delincuencia Organizada / 2005*, internal annual report on organised crime in Spain produced by the Spanish police forces (unpublished).

²⁴¹ Alan A. Block, 'History and the Study of Organized Crime', *Urban Life*, Vol. 6, No. 4, 1978, p. 470, citing Mark H. Haller, 'Organized crime in urban society', *Journal of Social History*, Vol. 5, 1971-1972, pp. 210-234.

country from an enterprise perspective, in terms of the provision of illegal goods and services. Varese notes that the provision of illegal goods and services, as the essence of 'organised crime', appears in definitions during the 1960s²⁴² (for example, in the 1967 President's Commission Task Force on Organized Crime report²⁴³ and in an article published the same year by Donald Cressey²⁴⁴). However, he also notes that, during the 1970s, there appears to be a move away from authors mentioning specific behaviour patterns, such as the supply of illicit goods and services, in favour of the more general term 'illegal activities'²⁴⁵. Clearly, the term 'illegal activities' can incorporate a much wider range of criminal behaviour, and what the enterprise model of organised crime and definitions that highlight the provision of illegal goods and services (or simply illegal activities) in the manner discussed above do not emphasise is 'the distinction between producers of goods and services, and providers of services of dispute settlement and protection in criminal markets'²⁴⁶. Nor do they emphasise the power aspect and motivation of some criminal groups.

The exercise of power, and 'Mafia'

Indeed, the definitions of some scholars highlight a further or alternative activity that some criminal groups in some parts of the world are involved in: the exercise and control of power over a geographical area. Some scholars (particularly Block²⁴⁷) argue that there are actually two types of 'organised crime' group, which are involved in distinctly different types of activity: the 'enterprise syndicate', which operates 'exclusively in the arena of illicit enterprises such as prostitution, gambling, bootlegging, and narcotics'²⁴⁸ as described above, and the 'power syndicate', which, rather than being involved in enterprise, is 'deeply involved in the production and distribution of informal power'²⁴⁹. This may be achieved, for example, through activities such as extortion or kidnapping. Catanzaro refers to the actors involved in the latter type of syndicate as 'political entrepreneurs' who, by creating a climate of fear, aim to gain control over a particular territory or the people that are part of it²⁵⁰. Although originally applied by Block to the criminal syndicates that

²⁴² Varese, *op. cit.*, p. 10.

²⁴³ President's Commission on Law Enforcement and Administration of Justice, *op. cit.*

²⁴⁴ Donald Cressey, 'Methodological problems in the study of organized crime as a social problem', *Annals of the American Academy of Political and Social Science*, Vol 374, No. 1, 1967.

²⁴⁵ Varese, *op. cit.*, p. 10.

²⁴⁶ *Ibid.*, p. 12.

²⁴⁷ Alan Block, *East Side-West Side: Organizing Crime in New York, 1930-1950*, Cardiff, University College Cardiff Press, 1980.

²⁴⁸ *Ibid.*, p. 129.

²⁴⁹ *Ibid.*, p. 13.

²⁵⁰ Raimondo Catanzaro, 'Violent Social Regulation: Organized Crime in the Italian South', *Social & Legal Studies*, Vol. 3, 1994, pp. 268-269.

operated in New York in the 1930s and 1940s²⁵¹, the concept of the 'power syndicate' has most predominantly been applied to the criminal groups of southern Italy, and particularly to the Sicilian Mafia. This is reflected in the definitions of scholars who have researched this area of 'organised crime'. For example, Blok defines 'mafia' as a '*modus vivendi*' and argues that:

The *Mafioso* can [...] be considered as a variety of the political middleman or power broker, since his *raison d'être* is predicated upon his capacity to acquire and maintain control over the paths linking the local infrastructure of the village to the superstructure of the larger society.²⁵²

The distinction between the 'power syndicate' and the 'enterprise syndicate', however, may not be so clear cut in reality, as some criminal organisations may combine enterprises with features of 'power syndicates'. Walston's discussion of the Neapolitan *Camorra*, for example, shows that enterprise and power are not mutually exclusive components of some *Camorra* groupings²⁵³. Indeed, the exercise of power and control over a given territory can give criminal groups an advantaged position in relation to markets and entrepreneurial activity²⁵⁴. Moreover, the distinction between the 'enterprise syndicate' and the 'power syndicate' may have been more pronounced in the past. Authors such as Walston²⁵⁵, Arlacchi²⁵⁶, Hess²⁵⁷ and Zaitch²⁵⁸, for example, all discuss an evolution (from around the 1960s onwards) from a power-motivated mafia in Sicily, for example, to a more 'entrepreneurial' or 'financial' mafia²⁵⁹. However, these authors, nonetheless, maintain that 'mafia' groups should essentially be *defined* in terms of 'power syndicates' and Zaitch, for example, argues that:

The evolution from a 'traditional' to a more modern 'entrepreneurial' or 'financial' *mafia* does not contradict [the] centrality of the 'logic of power'.²⁶⁰

Related to the recognition that 'mafia' can be seen as a special form of 'organised crime', some scholars see 'mafia' as being of a particularly special type, one that is predominantly associated with the supply of protection. Gambetta, for example, defines 'mafia' as '[...] an industry which produces, promotes, and sells private protection'²⁶¹. He

²⁵¹ See Blok, *East Side-West Side: Organizing Crime in New York, 1930-1950*, *op. cit.*, particularly Chapter 6.

²⁵² Anton Blok, *The Mafia of a Sicilian Village, 1860-1960: A Study of Violent Peasant Entrepreneurs*, Prospect Heights, Illinois, 1974, p. 7.

²⁵³ James Walston, 'See Naples and Die: Organized Crime in Campania' in Robert J. Kelly (ed.), *Organized Crime: A Global Perspective*, Totowa, New Jersey, Rowman & Littlefield Publishers, 1986, pp. 134-158.

²⁵⁴ See Zaitch, *Trafficking Cocaine: Colombian Drug Entrepreneurs in the Netherlands*, *op. cit.*

²⁵⁵ Walston, *op. cit.*

²⁵⁶ Pino Arlacchi, *Mafia Business: The Mafia Ethic and the Spirit of Capitalism*, London, Verso, 1986.

²⁵⁷ Henner Hess, *Mafia & Mafiosi: Origin, Power and Myth*, London, C. Hurst & Co. (Publishers) Ltd., 1998.

²⁵⁸ Zaitch, *Trafficking Cocaine: Colombian Drug Entrepreneurs in the Netherlands*, *op. cit.*

²⁵⁹ See also Longo, *op. cit.*, pp. 18-19.

²⁶⁰ Zaitch, *Trafficking Cocaine: Colombian Drug Entrepreneurs in the Netherlands*, *op. cit.*

²⁶¹ Diego Gambetta, *The Sicilian Mafia: The Business of Private Protection*, Cambridge, Massachusetts, Harvard University Press, 1993, p. 1.

argues that although *mafiosi* may deal in a variety of commodities, that should not be what defines them:

[...] mafiosi are not entrepreneurs primarily involved in dealing with illegal goods
[...]. Mafiosi as such deal with no good other than protection.²⁶²

Likewise, Varese²⁶³ and Hill²⁶⁴, in their studies of the Russian Mafia and the Japanese *Yakuza* respectively, define a 'mafia' group as one that specialises in protection as a commodity. Indeed, although some people may use the terms 'mafia' and 'organised crime' synonymously, it is this very specialisation in the supply of protection as a form of governance which has led to some Russian criminal organisations, the Sicilian *Cosa Nostra*, the Japanese *Yakuza* and even the Hong Kong Triads²⁶⁵ being collectively labelled as 'Mafias' and, for this reason, these groups should be considered as essentially different to other criminal and 'organised crime' groups²⁶⁶. In some cases, 'mafia' protection may actually be nothing more than spurious protection from the group itself. However, in other cases, the protection and the services offered by 'mafia' groups may be genuine. Studies have shown, for example, that the Sicilian Mafia has provided genuine (albeit illegal) protection against theft and extortion, served to limit competition in particular industries and has provided arbitration and mediation services to settle disputes²⁶⁷. In providing such forms of protection, however, 'mafia' groups may not necessarily adhere to rules favouring fairness or merit. As Varese emphasises:

[...] the Mafia operates without consideration for justice, fairness or the well-being of society at large. In the world run by the Mafia, there is no such thing as a 'right' even to the protection for which one has paid. Mafiosi can ask for more favours or more money, or collude with other Mafias against dutifully paying clients, and there is no higher authority to which the victim can appeal.²⁶⁸

Focussing on the 'what' question and the activities involved in 'organised crime' in this respect further helps our understanding of the nature of 'organised crime' in Spain – the categorisation of 'mafia' as a special form of 'organised crime', and the distinction between power syndicates and enterprise syndicates, allows us to be even more specific about the motivation of the groups engaged in the illicit activities in Spain which were

²⁶² *Ibid.*, p. 9.

²⁶³ Federico Varese, *The Russian Mafia: Private Protection in a New Market Economy*, Oxford, Oxford University Press, 2001, p. 4; Federico Varese, 'What is the Russian Mafia?', *Low Intensity Conflict & Law Enforcement*, Vol. 5, No. 2, 1996, p. 131. See also Varese, 'General Introduction: What is organized crime?', *op. cit.*, pp. 17-19.

²⁶⁴ See Peter B. E. Hill, *The Japanese Mafia: Yakuza, Law, and the State*, Oxford, Oxford University Press, 2003, p. 10.

²⁶⁵ See, for example, Gambetta, *op. cit.*; Varese, *The Russian Mafia*, *op. cit.*; Hill, *op. cit.*, Yiu Kong Chu, *The Triads as Business*, London and New York, Routledge, 2000.

²⁶⁶ See Gambetta, *op. cit.*, p. 227; Hess, *op. cit.*, p. 198.

²⁶⁷ See, for example, Gambetta, *op. cit.* and Hess, *op. cit.*

²⁶⁸ Varese, 'General Introduction: What is organized crime?', *op. cit.*, p. 18, citing Gambetta, *op. cit.*, p. 33 and Varese, *The Russian Mafia*, *op. cit.*, p. 6 and p. 190.

detailed above. As we have seen, the criminal activities occurring in Spain involve the provision of illicit goods and/or services, or the provision of licit goods through illicit means, and there is no evidence to suggest that the groups involved in these activities are motivated by anything other than money and profit. Therefore, according to Block's distinction, the criminal groups operating in Spain are 'enterprise syndicates'. We have seen that 'mafias' or criminal groups of the 'power syndicate' variety (such as the various Italian 'mafias') are active in Spain but they do not (as yet) act as 'power syndicates' there: their activities are confined to enterprise. Indeed, although political involvement may be a part of these (and other) groups' activities in Spain (through corruption, for example – and this will be discussed in Chapter 4), the purpose of this is to gain protection or immunity for the illegal activities that they participate in²⁶⁹. As Rawlinson makes clear:

Even when organized crime is engaged in more politically motivated activities, such as the corruption of government officials, these relationships are underscored by entrepreneurial goals.²⁷⁰

The evidence does not suggest that the criminal groups active in Spain are aiming to secure the full control of a given territory or exercise power in the way that a 'power syndicate' or 'mafia' would.

Therefore, although the terms *crimen organizado* or *delincuencia organizada* (both translate literally as 'organised crime') are used extensively in Spain by the media, the Spanish authorities and the Spanish police (as they were by the other categories of professional interviewed for this thesis), 'illicit enterprise' as a particular form of 'organised crime' is actually a more accurate term to use in order to describe and reflect the forms of criminal activity being carried out in Spain and with which this thesis is concerned. As a result, and where appropriate, the use of this term will be favoured over that of 'organised crime' in the remaining chapters of this thesis.

For the purposes of reviewing the definitional debate, and also in order to provide a fully comprehensive picture of illicit enterprise in Spain, one or two further issues need addressing in this chapter. Particularly, it is now worth highlighting that, given the difficulties of finding a precise definition of 'organised crime', some academics have preferred to take a different approach and have formulated lists of defining variables or characteristics of 'organised crime'. Maltz, for example, includes the following attributes as potential indicators of 'organised crime': corruption, violence, sophistication, continuity,

²⁶⁹ Howard Abadinsky, *Organized Crime*, 9th edition, Belmont, California, Wadsworth Publishing, 2009, p. 3.

²⁷⁰ Rawlinson, *op. cit.*, p. 326.

structure, discipline, multiple enterprises, legitimate business and bonding²⁷¹. Similarly, Finckenauer includes in his list of variables: lack of ideology, structure/organised hierarchy, continuity, violence/use of force or the threat of force, restricted membership, illegal enterprises, penetration of legitimate businesses and corruption²⁷², and Abadinsky's most recent list claims that 'organised crime': has no political goals, is hierarchical, has a limited or exclusive membership, constitutes a unique subculture, perpetuates itself, exhibits a willingness to use illegal violence, is monopolistic and is governed by explicit rules and regulations²⁷³.

This kind of approach to characterising 'organised crime' has its advantages, because it is able to gather together and take into account all the differing aspects of the more specific academic definitions of the phenomenon. However, this approach also reflects the eleven-point EU definition, for example, and, as discussed earlier in this chapter, some of these legal/law enforcement definitions can be criticised for their breadth and all-encompassing nature. Indeed, the academics that take this approach themselves point out that some criminal organisations may not possess all of the attributes included their lists²⁷⁴ or that some characteristics may be central, while others are peripheral, and so on²⁷⁵. Furthermore, even from just the three examples given above, we can see that the contents of the lists are not identical (indicating that disagreement is inherent even with this more general approach), and the differing attributes which are (or are not) included in the respective lists are likely to be dependent on the same factors that account for the differences in definitions (perspective, data, time, place, and so on). Certainly, as we have seen in this chapter, not everyone would agree, for example, that 'organised crime' is hierarchical.

Nevertheless, a discussion of some of these variables in relation to Spain will serve to give us further understanding of the nature and extent of illicit enterprise there. As noted in the Introduction, in order to carry out and ensure the success of the illegal activities discussed earlier in this chapter, criminal groups in Spain use violence and intimidation, and they corrupt politicians, law enforcement officers, judges, and so on. The issue of corruption will be discussed in Chapter 4. However, some examples of the violence undertaken by criminal groups in Spain will be mentioned here because, according

²⁷¹ Michael D. Maltz, 'Toward Defining Organized Crime' in Herbert E. Alexander and Gerald E. Caiden (eds.), *The Politics and Economics of Organized Crime*, Lexington, Massachusetts, Lexington Books/D.C. Heath and Company, 1985, pp. 21-35.

²⁷² See Longo, *op. cit.*, p. 17, citing J. O. Finckenauer, 'Problems of definition: what is organized crime?', *Trends in Organized Crime*, Vol. 8, No. 3, 2005, pp. 63-83.

²⁷³ See Abadinsky, *Organized Crime*, 9th edition, *op. cit.*, pp. 3-5.

²⁷⁴ See *ibid.*, p. 5.

²⁷⁵ Maltz, *op. cit.*, p. 24.

to the Public Prosecutor of Málaga, for example, the most worrying aspect of the criminal activities undertaken in Spain is not the quantitative increase of crime but, in qualitative terms, the seriousness of the crimes committed²⁷⁶, and this surely encompasses the threat to life that these crimes inevitably involve. Indeed, as elsewhere in Spain, violence relating to some of the criminal activities discussed above occurs in the Costa del Sol and this involves shootings, killings, kidnappings and gang fighting as a result of feuds and settling of accounts within, and between, criminal groups²⁷⁷. A review of the Spanish (and, indeed, the British) press over the last few years provides us with many examples of such violence in this region. However, some recent examples include the shooting (and killing) of British criminal, William Moy, in a bar in Marbella in July 2006, in what was believed to be a drug gang execution²⁷⁸, or the professional hit on an Estonian man (who had 'connections with organised crime') in the very same bar in August 2007²⁷⁹. Shortly afterwards, in September 2007, three men (one Ecuadorian and two Colombians) were shot in Fuengirola in what was thought to be a drug-related settling of scores (one man died at the scene and the others died later in hospital)²⁸⁰. This happened just two days after a burnt out body was found in a car in Estepona²⁸¹. Another example was the shooting (and killing) of a known Irish gangster in February 2008, who had spent the last two years taking refuge in one of

²⁷⁶ See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit.*, p. 195 and N. Sánchez, 'La Fiscalía avisa de que la delincuencia organizada se extiende ya a la Axarquía', *malagahoy.es*, 05/09/08, <http://www.malagahoy.es/articulo/malaga/221242/la/fiscalia/avisa/la/delincuencia/organizada/se/extiende/ya/la/axarquia.html> [accessed 07/09/08].

²⁷⁷ Interviews P2, J6 and P12, and Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo II, Volumen I), op. cit.*, p. 195. Indeed, the political party IU claimed that, during 2006, the Costa del Sol was the scene of more than 50 kidnappings and settling of accounts between criminal groups. See Izquierda Unida-Los Verdes-Convocatoria por Andalucía (IU-LV-CA), *Aproximación al Crimen Organizado y la Actividad Mafiosa en la Costa del Sol, II Informe: El Crimen Organizado en la Costa del Sol*, Observatorio del Crimen Organizado de IU-LV-CA y Oficina de Comunicación de IU-LA-CA, Boletín no. 2, Febrero de 2008, p. 14, <http://iumalaga2008.org/files/II%20Informe%20Crimen%20Organizado1.pdf> [accessed 06/10/08].

²⁷⁸ See, for example, Giles Tremlett, 'British body count soars as the Costa killers turn up the heat', *guardian.co.uk*, 07/08/06, <http://www.guardian.co.uk/uk/2006/aug/07/spain.ukcrime> [accessed 05/08/08].

²⁷⁹ See, for example, 'Estonian man shot dead in Nueva Andalucía, Marbella', *typicallyspanish.com*, 27/08/07, http://www.typicallyspanish.com/news/publish/printer_12162.shtml [accessed 19/09/07], quoting *Diario Sur* and 'Organised crime links reported in Marbella shooting', *typicallyspanish.com*, 02/09/07, http://www.typicallyspanish.com/news/publish/printer_12250.shtml, [accessed 17/09/07], quoting *Diario Sur*.

²⁸⁰ See, for example, 'Shooting in Fuengirola Claims 2 Lives', *Costadelsol.st*, 12/09/07, http://www.costadelsol.st/news/news_pres.php3?nr=800072098&type=0; 'Police arrest four suspects for Fuengirola shooting', *typicallyspanish.com*, 13/09/07, http://www.typicallyspanish.com/news/publish/printer_12437.shtml; 'Colombian man confesses to his participation in the Fuengirola shooting', *typicallyspanish.com*, 14/09/07, http://www.typicallyspanish.com/news/publish/printer_12472.shtml and 'Third man dies after Fuengirola shooting', *typicallyspanish.com*, 16/09/07, http://www.typicallyspanish.com/news/publish/printer_12497.shtml [all accessed 17/09/07].

²⁸¹ 'Shooting in Fuengirola Claims 2 Lives', *op. cit.*

Estepona's many urbanisations²⁸², to which we can add the three shootings (resulting in a total of seven people injured) that took place in public bars in Marbella in the space of just one month (August/September 2008) and which, again, were all believed to be the result of (unconnected) settlings of scores between criminal gangs²⁸³. Moreover, sometimes, it is not just members of the criminal gangs themselves that are harmed in these attacks. For example, in 2004, the Spanish public was particularly shocked when an innocent man and child were killed (and at least another three people were seriously injured) when three hooded men using Kalashnikov rifles discharged between 50 and 100 bullets in a hairdressing establishment in Marbella²⁸⁴. Indeed, as the Spanish Attorney General's annual report emphasises, the dangerousness of the criminal groups in this area can be demonstrated by the number of arms seized by the police when the groups are detained. For example, according to data from the Spanish National Police, 39 firearms, 224 cartridges and 9 blades were seized in this region in 2006 alone²⁸⁵.

Criminal groups also engage in violence elsewhere in Spain. Indeed, reports of kidnappings, shootings and violent settling of scores involving members of Galicia's clans appear regularly in the Spanish, and even international, press²⁸⁶. As Thompson and Tremlett have pointed out:

In Galicia, shootings and the sudden disappearance of those said to be connected to smuggling, often believed to have been sent to the bottom of the sea by their rivals, have become more common since cocaine began arriving there in the Eighties.²⁸⁷

²⁸² See, for example, Juana Viúdez, 'Estepona o la lógica de la corrupción', *elpais.com*, 22/06/08, http://www.elpais.com/articulo/andalucia/Estepona/logica/corrupcion/elpepuespand/20080622elpand_3/Tes [accessed 11/08/08].

²⁸³ See, for example, M. J. Cruzado, 'Latest shooting in Marbella sparks calls for more police patrolling the streets', *surinenglish.com*, 05/10/08, <http://www.surinenglish.com/20081003/news/costasol-malaga/latest-shooting-marbella-sparks-200810031433.html> [accessed 06/10/08] and Fernando J. Pérez, 'Cuando las balas ya son paisaje', *elpais.com*, 28/09/08, http://www.elpais.com/articulo/andalucia/balas/paisaje/elpepiespand/20080928elpand_9/Tes/ [accessed 08/10/08].

²⁸⁴ See, for example, Luis Gómez, 'La costa del crimen organizado', *El País*, 12/12/04, pp. 1-3.

²⁸⁵ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I)*, *op. cit.*, pp. 703-704, quoting data from *el Cuerpo Nacional de Policía* (Spanish National Police).

²⁸⁶ For example, in September 2005, it was reported that a man was shot dead in Ourense in what was believed to be a settling of scores between Galicia's drug traffickers. The same report also gives details of the murder of two men in Pontevedra earlier that year in another presumed settling of scores. See EFE, 'Un hombre fallece a tiros en Ourense en un supuesto ajuste de cuentas', *El País*, 04/09/05, p. 29. Another example, this time from the British press, details the deaths of the Feijóo cousins, whose charred corpses were discovered in Cambados (Pontevedra) in December 2005. The report also refers to other traffickers that were killed or kidnapped in Galicia in 2005. See Tremlett, 'Ruthless heirs of cocaine trade tighten their grip on a smugglers' paradise', *op. cit.*

²⁸⁷ Thompson and Tremlett, *op. cit.*

It seems that the trend has endured in recent years. Throughout 2005, for example, there were 'half a dozen murders'²⁸⁸, and the Attorney General's 2007 report confirmed that, during 2006, there continued to be kidnappings and settlings of scores between criminal clans, which were carried out either as an element of pressure to guarantee operations or as a means of collecting debts, or even as compensation for aborted operations²⁸⁹. It seems, however, that until now at least, such violence in Galicia has been confined to the criminal world, and has been directed against individuals within the same organisation, or against other organisations engaged in the same criminal activity²⁹⁰.

Furthermore, as in the other regions examined in this thesis, the criminal groups active in Madrid also engage in violence to facilitate their activities. Although the data held by the Public Prosecutor of the autonomous community of Madrid records a relatively low number of homicides resulting from settlings of scores between criminal organisations in recent years (11 deaths in 2005 and just two in 2006)²⁹¹, a review of the Spanish press (and other sources) would lead us to believe that violence related to criminal gangs in Madrid is more frequent. Indeed, numerous examples could be given, yet just two or three are probably sufficient to illustrate the point: in a period of only two months during 2001, for example, a total of 17 Colombians were killed in Madrid as a result of 'organised crime'-related violence²⁹²; at least 20 of the 53 foreigners murdered in Madrid during the first ten months of 2003 were thought to have been killed as a result of a settling of scores²⁹³ and, writing in 2004, Gómez-Céspedes and Stangeland highlighted the 30 plus 'drug-related vendette' that had taken place in the region since 2000²⁹⁴. Moreover, some recent examples of violence involving criminal gangs include the shooting and killing, in January 2009, of a suspected Colombian *capo* as he lay in his Madrid hospital bed, or the incident that occurred just two days later in the centre of the capital, when a Romanian nightclub

²⁸⁸ Interview P17.

²⁸⁹ Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit.*, p. 708. This point was also made by the professional interviewed in interview P17.

²⁹⁰ *Ibid.*

²⁹¹ See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I), op. cit.*, p. 711.

²⁹² See Jennifer Sands, 'Exploring Transnational Organised Crime in the Age of Globalisation: A Case Study of the Colombian Cartels and Russian Mafias in Spain', *Grotius*, No. 1, 2004, p. 98, citing Tony Thompson, 'Deadly Cargo', *The Observer*, 21/04/02, <http://www.guardian.co.uk/Archive> [accessed 24/07/02]; Giles Tremlett, 'Colombian cocaine war shifts to Madrid', *The Guardian*, 28/09/01; 'Tres colombianos mueren en un tiroteo entre bandas de narcotraficantes en Madrid', *El País*, 26/09/01, <http://www.elpais.es> [accessed 24/07/02]; F. J. Barroso and T. Escárraga, 'Los ajustes de cuentas entre "narcos" colombianos se cobran diez vidas en 40 días en Madrid', *El País*, 27/09/01, <http://www.elpais.es> [accessed 08/08/02]; and Patricia Ortega Dolz, 'Las bandas de delincuentes extranjeros en España han crecido un 30% en un año', *El País*, 30/09/01, <http://www.elpais.es> [accessed 08/08/02].

²⁹³ See Francisco Peregil, 'Venganzas mortales', *El País*, 23/11/03, p. 28.

²⁹⁴ Gómez-Céspedes and Stangeland, *op. cit.*, p. 387.

doorman (who was facing trial for kidnapping) was murdered in what police suspected was a settling of scores between a Bulgarian clan and a rival Spanish group (the gunman was also suspected of killing another man and injuring three people as he fled the scene)²⁹⁵. Indeed, as in other regions of Spain, it would appear that killings and settlings of scores, as well as kidnappings, occur in Madrid when there is a dispute between criminal groups over the control of a particular territory or trade, or when a 'debt' is owed²⁹⁶, and much of the violent activity is undertaken by *sicarios* (hired assassins), which now appear to be established, and living in, Madrid²⁹⁷. Although acts of violence in Madrid are most usually directed towards other members of the criminal world, as in the Costa del Sol, members of criminal gangs have not been the only victims of shootings and kidnappings. For example, in August 2002, an inspector from Madrid's Homicide Squad was shot and killed (and another two agents were injured) when attempting to arrest two Colombian *sicarios* that had, allegedly, killed another South American the previous weekend²⁹⁸. Also, the Spanish press has recently recounted the activities of some Chinese citizens (dubbed 'a Chinese mafia') that had been kidnapping their, seemingly innocent, compatriots (predominantly young people and children) in Madrid, purely to make money²⁹⁹.

Another characteristic of 'organised crime' that appears in the lists of both Maltz and Finckenaueer discussed above, and which is particularly important in the case of Spain, is the penetration of legitimate businesses. Criminal groups may become involved in legitimate businesses for a number of reasons³⁰⁰ but, predominantly, legitimate businesses can be used to launder money. In Spain, just like anywhere else, the criminal groups engaged in illicit enterprise have to launder the proceeds of their crimes and, in Spain, this has led to criminal groups infiltrating legal industries such as construction and the tourist/hospitality sector. Significantly, and as one of the recent annual reports by SEPBLAC (*Servicio Ejecutivo de la Comisión de Prevención de Blanqueo de Capitales e Infracciones Monetarias*) (Executive Service of the Commission for the Prevention of Money Laundering

²⁹⁵ See, for example, F. Javier Barroso and Rafael Fraguas, 'Choque de mafiosos: dos muertos', *elpais.com*, 13/01/09.

http://www.elpais.com/articulo/madrid/Choque/mafiosos/muertos/elpepiespmad/20090113clpmad_3/Te%g [accessed 19/01/09].

²⁹⁶ See, for example, Jesús Duva, 'Los geos liberan en Madrid a un hombre que estaba secuestrado por unos sicarios', *El País*, 16/01/05, p. 30.

²⁹⁷ The professional interviewed in interview J2, for example, claimed that *sicarios* are 'very common' in Madrid. On this point, also see Pablo Ordaz, 'Los sicarios abren sucursal en Madrid', *El País*, 03/11/02, p. 11.

²⁹⁸ See, for example, Gómez-Céspedes and Stangeland, *op. cit.*, p. 401 and Ordaz, *op. cit.*

²⁹⁹ See, for example, Jesús Duva, 'Ojos vendados, palizas y una pistola en la cabeza', *elpais.com*, 14/01/09, http://www.elpais.com/articulo/madrid/Ojos/vendados/palizas/pistola/cabeza/elpepiespmad/20090114clpmad_4/Te%g [accessed 19/01/09].

³⁰⁰ See, for example, Maltz, *op. cit.*, pp. 31-32.

and Monetary Offences) points out, in recent years, the real estate sector, generally, has been identified by various national and international institutions/bodies as being one of the most utilised channels for money laundering by criminal organisations³⁰¹, and the case of the Costa del Sol provides several notable, and alarming, examples of such practices and thus deserves special mention. Certainly, a look at some of the successful police operations from the last few years serves to illustrate the extent of this problem. One of the most famous and important cases, for example, unravelled in March 2005 with *Operación Ballena Blanca* (Operation 'White Whale')³⁰², during which (it was claimed at the time) Spanish police uncovered 'the largest money laundering network in Europe'³⁰³. It was alleged that hundreds of shell companies, run from the Marbella offices of lawyer Fernando del Valle, were set up, in order to launder the illicit proceeds of crime of several international 'organised crime' groups involved in drugs and arms trafficking, prostitution, kidnapping, fraud, tax evasion, murder, and so on. Most of the money was invested in the property sector in the Costa del Sol and, at the time, it was estimated that over 250 million euro had been laundered. More than 50 lawyers and businessmen, as well as the mayor of Manilva (Málaga), were arrested in connection with this case and 251 properties in the Costa del Sol were seized, along with bank accounts, boats, light aircraft and several luxury motorbikes and cars³⁰⁴.

Operación Ballena Blanca marked the first time that police had 'established a direct link between 'organised crime' and Spain's construction and real estate industries'³⁰⁵, and confirmed that money from international drug trafficking was being invested in the Spanish

³⁰¹ See Servicio Ejecutivo de la Comisión de Prevención de Blanqueo de Capitales e Infracciones Monetarias (SEPBLAC), *Memoria Annual 2006*, Madrid, SEPBLAC, 2007, p. 57 and p. 59,

http://www.sepblac.es/espanol/informes_y_publicaciones/memoria2006.pdf [accessed 20/08/08].

³⁰² For full details of this case see, for example, 'La policía destapa en Marbella la mayor red de blanqueo en Europa', *El País*, 13/03/05, p. 1; Luis Gómez, 'La red de blanqueo de dinero desarticulada en Marbella utilizaba más de mil sociedades', *El País*, 13/03/05, pp. 19-20; J. Martín-Arroyo, 'El alcalde de Manilva anuncia su dimisión tras ingresar en prisión', *El País*, 16/10/05, p. 32; 'White Whale Connection', *The Euro Weekly News (Costa del Sol)*, 27/10/05 – 02/11/05, p. 6; Montse Martin, 'The Marbella Connection', *Sur in English*, 28/10/05 – 03/11/05, pp. 18-19; MIR (Dirección General de Relaciones Informativas y Sociales), 'Balance contra la delincuencia organizada en 2005: Las FCSE detuvieron a 3.925 personas y dismantelaron 290 grupos vinculados con el crimen organizado en 2005', *Nota de prensa*, Madrid, MIR, 13/02/06, http://www.mir.es/DGRIS/Balances/Balance_2005/pdf/balance_2005_crimen_organizado.pdf [accessed 04/08/08]; Díez Ripollés and Gómez-Céspedes, *op. cit.*, pp. 16-17 and Manuel Villoria, 'Country reports: Spain', in Transparency International, *Global Corruption Report 2006*, London and Ann Arbor, MI, Pluto Press in association with Transparency International, 2006, pp. 251-252,

http://www.transparency.org/publications/gcr/download_gcr/download_gcr_2006 [accessed 08/10/08].

³⁰³ See 'La policía destapa en Marbella la mayor red de blanqueo en Europa', *op. cit.* (my translation).

³⁰⁴ In September 2008, the Anti-Corruption Prosecutor finally concluded his investigation into this case. In a document delivered to a Marbella court on 16/09/08, the prosecutor detailed the so-called 'plot', organised in order to launder 12 million Euros from mafia activities through the offices of Del Valle. The prosecutor concluded that up to 18 people contributed to the 'corrupt plot'. See, for example, Francisco Mercado, 'El bufete de Del Valle blanqueó 12 millones de euros de origen criminal', *elpais.com*, 17/09/08, http://www.elpais.com/articulo/espana/bufete/Valle/blanqueo/millones/euros/origen/criminal/elpepunac/20080917elpepinac_13/Tes [accessed 20/10/08].

³⁰⁵ Villoria, *op. cit.*, p. 252.

real estate sector³⁰⁶. Further evidence soon followed. For example, in May 2005, in *Operación Laila*, Spanish police dismantled a hashish trafficking network that laundered at least 30 million euros from the proceeds of that activity through the real estate and financial sectors of the Costa del Sol. The property embargoed in that operation reached almost 10.5 million euros, and deposits from bank accounts totalling 470,433 euros were also seized. In order to launder its illicit proceeds, the criminal group (composed of Moroccans and Spaniards) used a framework of companies, controlled by different members of the group and managed through lawyers' offices in the Costa del Sol, to invest in plots of land, build properties (acting as developers) and transfer the ownership of the properties from one company to another³⁰⁷. Other examples from 2005 include *Operación Sugar*, in July, in which a drug trafficking network (trafficking cocaine and hashish from the Costa del Sol to the UK) was found to be laundering some of their illicit profits by making numerous investments in real estate, using large amounts of cash and taking out mortgage loans (which overvalued the properties in order to increase the amounts laundered)³⁰⁸, and *Operación Turrón* in October. In the latter operation, it was estimated that around 40 million euros were invested in the purchase of real estate developments in Mijas Costa (Málaga) by a Portuguese criminal group for the purposes of laundering the proceeds gained, yet again, from drug trafficking. A total of 132 luxury apartments were seized in the operation and four people were arrested, including a lawyer that was working in Marbella and who was, allegedly, managing the companies that were making the real estate purchases³⁰⁹. In January 2006, it was also reported that Spanish police, in collaboration with British police, had seized (amongst other things) 3,800 kilograms of hashish resin and detained 34 people that were operating in both Spain and the UK. The principal members of this group were settled in Marbella and were involved in the acquisition, concealment and dispatch of the

³⁰⁶ José Luis Barbería, 'Las mafias echan sus tentáculos en la construcción', *elpais.com*, 03/10/06, http://www.elpais.com/articulo/espana/mafias/echan/tentaculos/construccion/elpporesp/20061003elpepinac_16/Tes/ [accessed 10/10/08].

³⁰⁷ See, for example, Martín-Arroyó, 'La policía desmantela en Málaga una red que blanqueó al menos 30 millones del narcotráfico', *op. cit.* and MIR (Dirección General de la Policía), 'La Policía da un nuevo golpe en la Costa del Sol al blanqueo de dinero', *Nota de prensa*, Madrid, MIR, 21/05/05, http://www.mir.es/DGRIS/Notas_Prensa/Policia/2005/np052101.htm [accessed 18/08/08].

³⁰⁸ See, for example, MIR (Dirección General de la Policía), 'La Policía bloquea bienes valorados en decenas de millones de euros procedentes del blanqueo en la Costa del Sol', *Nota de prensa*, Madrid, MIR, 14/07/05, http://www.mir.es/DGRIS/Notas_Prensa/Policia/2005/np071402.htm and 'Detenidos 13 británicos por tráfico de drogas y blanqueo en Málaga', *elpais.com*, 15/07/05, http://www.elpais.com/articulo/espana/Detenidos/britanicos/trafico/drogas/blanqueo/Malaga/elpepunac/20050715elpepinac_10/Tes [both accessed 18/08/08].

³⁰⁹ See, for example, 'Cae una red de blanqueo de dinero que compró 132 pisos en Mijas', *op. cit.*; MIR (Dirección General de la Policía), '132 apartamentos de lujo embargoados, cuentas bloqueadas e investigado un despacho de abogados marbellí', *Nota de prensa*, Madrid, MIR, 07/10/05, http://www.mir.es/DGRIS/Notas_Prensa/Policia/2005/np100702.htm [accessed 18/08/08]; and Antonio Montilla, 'Another Costa money laundering gang held', *Sur in English*, 14/10/05 – 20/10/05, <http://past-editions.surinenglish.com/noticias.php?Noticia=7199&Week=156> [accessed 15/09/08].

drug to the UK, where it was then distributed. Once again, they also used real estate companies in the Costa del Sol to launder the proceeds gained from these illicit activities³¹⁰. Also in 2006, in October, in the second phase of *Operación Delfin*, Spanish police detained four people who were members of a financial and economic framework used by international drug trafficking organisations for the laundering of their illicit proceeds. The profits were mainly generated through the trafficking of cocaine and were then laundered through investments in real estate in the Costa del Sol and Galicia. Amongst other things seized or embargoed in this phase of the operation, were 35 buildings and funds in numerous bank accounts, which, in total, were worth more than 40 million euros³¹¹. Thus far, it seems that the majority of these kinds of police operations against money laundering have taken place in Málaga province, yet the Public Prosecutor of neighbouring province Cádiz has also recently expressed his fear that the emerging real estate sector there will also be used for laundering the illicit profits of criminal organisations³¹².

Without a doubt, money laundering, particularly through the real estate sector, is most notoriously associated with the Costa del Sol. However, money laundering is clearly carried out in other parts of Spain too. There is even some evidence of this activity being carried out in Galicia³¹³, despite one of the interview sources claiming that 'there are not many obvious signs of it' in the region³¹⁴. For example, Tremlett relates a story involving a furniture retail warehouse that was used for this purpose³¹⁵, and the OGD claims that, in Galicia, in addition to the real estate sector, the tourist industry, agriculture, sports, the fishing industry, the canning industry, the banking sector, trade in luxury goods and even public debt 'continue to feed on drug funds'³¹⁶.

³¹⁰ MIR (Dirección General de la Policía), 'La Policía desarticula en la Costa del Sol dos peligrosos grupos organizados', *Nota de prensa*, Madrid, MIR, 28/01/06, http://www.mir.es/DGRIS/Notas_Prensa/Policia/2006/np012804.htm [accessed 18/08/08]. Interestingly, what hindered the police in their work in this operation was the involvement of a former English policeman, a former soldier from the British navy and a former military professional, who was instructing the rest of the members of the group on the techniques usually used by the police in such circumstances.

³¹¹ See, for example, MIR (Dirección General de la Policía y de la Guardia Civil), 'La Policía desmantela la estructura financiera utilizada por narcotraficantes para el blanqueo de sus ganancias', *Nota de prensa*, Madrid, MIR, 26/10/06, http://www.mir.es/DGRIS/Notas_Prensa/Policia/2006/np102602.htm and 'Cae una red de narcotráfico que blanqueaba dinero en inversiones inmobiliarias en Andalucía y Galicia', *elmundo.es*, 26/10/06, <http://www.elmundo.es/elmundo/2006/10/26/espana/1161856908.html> [both accessed 18/08/08].

³¹² See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I)*, *op. cit.*, p. 703.

³¹³ This point was raised during interviews M2 and P15 and in questionnaires QE, QF and QL.

³¹⁴ Interview J1. The OGD also claims that the dirty money generated in Galicia is invested elsewhere in Spain, and even as far as Venezuela. See OGD, *op. cit.*, p. 91.

³¹⁵ See Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 381.

³¹⁶ OGD, *op. cit.*, p. 91.

Finally, this chapter on definitions must also address the concept of 'transnational organised crime' (TOC). In 1994, the UN adopted this term to show how 'organised crime' has become a global 'threat'³¹⁷. In the last couple of decades, with increasing globalisation and the opening of Europe's borders, increased developments in travel and communication, advances in technology, and so on, we need to take into account the fact that criminal groups and activities are increasingly crossing national borders. As Levi reminds us:

As with legitimate products – many products supplied by 'organized criminals' are grown and/or manufactured in far-distant parts of the world – it is difficult to retain the nation state as a meaningful bounded unit of analysis for understanding the organized crime issue as a whole, even though most individuals involved in drug-dealing, extortion, credit card fraud, armed robberies, sex work, etc. may not do any international business as part of their daily routines.³¹⁸

Thus, although some criminal groups' scope of operations remains within national boundaries (or even within the groups' own locality), many criminal groups throughout the world, in response to changing market opportunities, now commit crimes and operate in a number of different jurisdictions. Williams and Savona further argue that even those groups that are still predominantly national in scope will increasingly operate on a transnational level in the future, as the incentives for them to do so also increase³¹⁹.

We tend to refer to 'organised crime' as being 'transnational' when criminal groups that have a home base in one state engage in international activities or operate in one or more host states, where market conditions are more favourable or where law enforcement operations against them are not as strong³²⁰. The UN, however, has laid down a wider definition. According to this, an offence is 'transnational' if:

- a) It is committed in more than one state;
- b) It is committed in one state but a substantial part of its preparation, planning, direction or control takes place in another state;
- c) It is committed in one state but involves an organised criminal group that engages in criminal activities in more than one state; or
- d) It is committed in one state but has substantial effects in another state.³²¹

³¹⁷ United Nations Economic and Social Council, *Problems and Dangers Posed by Organized Transnational Crime in Various Regions of the World*. Background document from the World Ministerial Conference on Organized Transnational Crime. (E/CONF.88/2), Switzerland, United Nations, 18/08/94.

³¹⁸ Levi, 'Organized Crime and Terrorism', *op. cit.*, p. 776.

³¹⁹ Williams and Savona, *op. cit.*, p. 5.

³²⁰ See, for example, *ibid.*, pp. 1-42; Phil Williams, 'Transnational Criminal Organisations and International Security' *Survival*, Vol. 36, No. 1, 1994, pp. 96-113.

³²¹ Article 3(2) United Nations Convention Against Transnational Organized Crime 2000, http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_eng.pdf.

Levi argues that these 'cross-border dimensions are what makes both organized crime and white-collar crime different from other crimes for gain'³²². However, even if it is accepted that cross-border activity by criminal groups has increased in recent decades, the use of term 'transnational organised crime' to describe this may not be without its problems.

Rawlinson, for example, argues that:

[...] when looking at TOC in action and how it is policed, in contrast to that which we describe simply as 'organized crime', it has less credibility as a distinctive term.³²³

That criminal groups commit crimes and exploit opportunities in other jurisdictions is not to say that 'organised crime' does not retain a local, cultural dimension. The global does not exclude the local; contemporary 'organised crime' combines tradition with modernity.

As Arlacchi states:

The most influential criminal entrepreneurs in Colombia, Sicily and South-East Asia have a double cultural identity. For all their integration into multinational networks of personal contact and business dealing, and for all their adoption of universal patterns of behaviour and consumption, they remain traditionalists, firmly tied to their native cultural world – the world of the family, the kinship group, the village, the quarter, or the sect.³²⁴

As a result, some commentators distinctly emphasise that, in reality, the activities undertaken as part of 'organised crime' and the response to it, as well as its victims and benefactors, actually exist in a 'local' as opposed to a 'transnational' space and will be affected by local conditions³²⁵. According to Longo, therefore, the best way to understand TOC is to see it as a way of acting or as a form of behaviour, in terms of creating functional links, rather than as a defining characteristic³²⁶.

TOC has a particular resonance in Spain. As discussed in the previous chapter, nationals of as many as 99 different countries participated in the known 471 'organised crime' groups in 2005³²⁷, which underlines that Spain has become 'an emerging criminal market in terms of global importance'³²⁸. That is not to say, however, that we should underestimate the importance of indigenous Spanish groups or criminals. Although Spaniards play a significant role in illicit enterprise throughout Spain (either with other Spaniards or in mixed nationality groups), criminal activity in Galicia (despite its connection with Colombian cocaine and its traffickers) is very much domestic in nature. Illicit enterprise (particularly drug trafficking) in Galicia is carried out, predominantly, by local

³²² Levi, 'Organized Crime and Terrorism', *op. cit.*, p. 776.

³²³ Rawlinson, *op. cit.*, p. 330.

³²⁴ Arlacchi, *op. cit.*, p. 220.

³²⁵ Rawlinson, *op. cit.*, pp. 330-331.

³²⁶ Longo, *op. cit.*, pp. 15-28.

³²⁷ España. *Delincuencia Organizada / 2005*, *op. cit.*

³²⁸ Gómez-Céspedes and Stangeland, *op. cit.*, p. 397.

family groups, which are highly specialised and professional³²⁹ and, stemming from a historical smuggling tradition, they are rooted in the region's history.

That 'organised crime' has both a local and 'transnational' dimension (both in Spain and elsewhere) clearly has implications for law enforcement. To effectively respond to 'organised crime', law enforcement needs to operate on a number of levels, including the local and international levels. As we have seen, the growth in cross-border criminal activity has resulted in attempts to increase collaboration and cooperation between national law enforcement bodies and security services, which, in terms of the issues posed by different criminal justice and legal systems, cultures, languages and working practices and (un)willingness to share intelligence and information, has not been without its problems. Just as the law enforcement community has to adjust to the demands of working on an international scale, so too does 'organised crime'. Criminal groups, for example, will have to make structural adjustments and demonstrate flexibility if they are to operate in the international market³³⁰. This may partly explain why we are seeing a rise in the number of analyses that emphasise networks as the current operational reality of 'organised crime' (discussed above)³³¹. It also underlines one of the points made at the beginning of this chapter: that definitions need to be constantly updated to take into account the changing nature of 'organised crime'.

Having reviewed some of the existing academic and legal definitions of 'organised crime', we can appreciate why a commonly agreed definition of the phenomenon is so difficult to achieve. Indeed, definitions are likely to be specific to time and place, and to the purpose and perspective of the observer. For the purposes of this thesis, then, the fuzzy and all-encompassing term 'organised crime' does not provide the conceptual clarity needed for our analysis, and some of the definitions that have been discussed in this chapter are either too broad, too specific, or they simply do not reflect the types of criminal activity occurring in Spain. It has therefore been argued that, because the nature of the criminal activities flourishing in Spain solely encompass either the supply of illicit goods and services and/or the provision of licit goods through illicit means, and that the groups engaged in these activities are motivated purely by money or profit, the so-called 'organised crime' that flourishes there constitutes a particular form of 'organised crime'; that of illicit enterprise. Therefore, in allowing us to understand more accurately the types of activities and behaviours with which this thesis is concerned, the concept of illicit enterprise provides a clearer entry point from which we can begin our analysis into why Spain is

³²⁹ Interview P17.

³³⁰ See, for example, Rawlinson, *op. cit.*, p. 331.

³³¹ *Ibid.*

particularly susceptible to this specific kind of criminal activity. The next chapter will consider some standard explanations for this and discuss the development of the hypothesis that will be tested subsequently in this thesis.

Chapter 3

Explaining Illicit Enterprise in Spain: Standard Explanations and the Development of the Hypothesis

As the Introduction explained, the purpose of this thesis is to provide a comprehensive understanding of the factors that facilitate 'organised crime' in Spain; by which, following the discussion in the previous chapter, we more accurately mean 'illicit enterprise'. The first part of this chapter, then, will assess the factors relating to Spain's social, economic and geographical characteristics which, as outlined in Chapter 1, are very commonly used to explain this kind of criminal activity in Spain. It will argue that, despite some initial scepticism as to the value of these kinds of explanations, these factors are indeed important (to a degree) when understanding why Spain retains a competitive edge when it comes to illicit enterprise. The second part of the chapter, however, will argue that these standard explanations only serve to give us a partial understanding of why illicit enterprise flourishes in Spain and that, in order to explain this fully, further factors must also be considered. The thesis therefore hypothesises that other key explanations relating to certain weaknesses and vulnerabilities in the political, judicial, legal, and law enforcement spheres, which are open to exploitation by criminal groups, are essential in understanding Spain's particular susceptibility to illicit enterprise. Subsequent chapters will test the hypothesis by exploring and assessing factors such as corruption and a lack of transparency and accountability in the political, and other, realms; a lack of political and public attention given to the problem of illicit enterprise; some legal and judicial deficiencies; and some apparent complexities surrounding law enforcement and policing structures. Firstly, however, this chapter will discuss the standard explanations for illicit enterprise in Spain, the extent of their value, and how the hypothesis was developed as a result of their inadequacies.

Standard explanations for illicit enterprise in Spain

Purported explanations for the existence of illicit enterprise in Spain can be found in some press and official reports and in some of the scant academic literature that makes reference (usually only briefly) to 'organised crime' and its associated activities in Spain. From this, it becomes apparent that the existence of illicit enterprise in Spain is typically and simply explained by the fact that the country possesses a number of characteristics (social, economic, geographical, and so on) that, when put together, make it an ideal

environment for criminal activity of this nature. The following quotation provides a typical example:

[...] Spain has certain political, social and economic characteristics that make it 'especially attractive' for the establishment of criminal groups: an open economic and financial system, mass tourism that guarantees anonymity and an economic structure that facilitates money laundering.¹

Similarly, when explaining how Spain has achieved its leading position as Europe's main importer of cocaine, Zaitch argues that Spain possesses a set of 'competitive advantages'², which include its geographical position and characteristics, as well as other factors relating to its history, culture and economy, especially tourism. Indeed, common explanations for the existence of illicit enterprise in Spain which typically involve some reference to the location and geography of Spain, the nature of Spain's industry and economy and the presence of immigrant communities in Spain are generally quite prolific and this continued to be the case when the fieldwork and interviews for this research were undertaken. For example, when the interviewees were discussing why (they thought) 'organised crime' existed or flourished in Spain, or why Spain was attractive to criminal groups, a combination of such factors was mentioned in at least ten of the interviews conducted (notably in interviews with members of Spain's police forces and judiciary, as well as in interviews with journalists who specialise in reporting on 'organised crime')³ and reference to the individual factors of geography and location, economy and industry, and immigration were mentioned by many more of the interviewees and questionnaire respondents. Some of these professionals even included factors such as the weather, the 'nice people', and 'the good life' that Spain has to offer as reasons for the existence of illicit enterprise in Spain⁴. It seemed almost as though explanations such as these presented the 'official line' on the causes of Spain's particular manifestation of 'organised crime', or at least the standard explanation for it that is wheeled out time and time again without any challenge or need for questioning. This is not particularly surprising: why would state officials, for example, want to discredit or attribute any blame to the state that they represent?

At the very beginning of the research process, it was assumed that the common reasons given to explain criminal activity in Spain (relating to geography, economic issues,

¹ M. J. Cruzado, 'El TSJA insta a combatir el crimen organizado en la Costa', *sur.es*, 21/04/06, <http://www.diaariosur.es/pg060421/prensa/noticias/Malaga/200604/21/SUR-MAL-018.html> [accessed 10/10/08], quoting Augusto Méndez de Lugo, the president (at the time) of the *Tribunal Superior de Justicia de Andalucía* (TSJA), (Supreme Court of Justice of Andalucía) (my translation).

² See Damián Zaitch, 'Recent Trends in Cocaine Trafficking in The Netherlands and Spain' in Dina Siegal, Henk van de Bunt and Damián Zaitch (eds.), *Global Organized Crime: Trends and Developments*, Dordrecht, Kluwer Academic Publishers, 2003, p. 15.

³ Specifically, for example, during interviews P6, P9, P11, P12, P13, P14, M2, J3, J7 and J8.

⁴ Interviews P12, P13, M2 and J8.

immigration, and so on) were simply just too basic and not intellectually satisfactory, and it was anticipated (perhaps all too cynically) that they would turn out to be excuses, used to cover up some more complex or fundamental issues, or to deflect any blame that could be attributed to the state. At that stage, it was tempting to dismiss these factors altogether. However, as the research progressed, it became increasingly apparent that those initial assumptions were incorrect: the oft-cited reasons for so-called 'organised crime' in Spain, as we will see below, do provide several benefits to, and facilitate the illicit enterprises and activities of, the many criminals there, and they may also have played a role in attracting 'transnational' criminal groups to Spain in the first place. Before moving on to discuss how the hypothesis developed, then, the common factors used to explain criminal activity in Spain, and the reasons why these factors cannot be dismissed altogether, will now be considered in some detail. Throughout this section, and where relevant, examples from the regions of Madrid, Galicia and the Costa del Sol will be employed to illustrate particular issues.

The location and geographical characteristics of Spain

As discussed above, when explaining the existence of illicit enterprise in Spain and/or why the country is ideal for criminal activity, it is clear that many view the location and geographical characteristics of Spain as important factors. For example, the geographical situation of Spain and/or geographical characteristics were mentioned as facilitating factors of 'organised crime' in 17 of the interviews conducted for this research⁵, and 12 out of 13 of the questionnaire respondents agreed or strongly agreed that 'the geopolitical location of Spain as a whole is ideal for organised crime activities' and/or that 'there are certain geographical features that facilitate organised crime'⁶. Furthermore, the remaining questionnaire respondent stated that 'there exist geographical factors that make Spain a desirable country for organised crime'⁷. Similar arguments can also be found in the literature and in official reports⁸.

⁵ Interviews J1, J3, J7, J8, P1, P3, P4, P6, P7, P8, P10, P11, P12, P13, P16, F1 and F2.

⁶ Questionnaires QA, QB, QC, QD, QE, QF, QG, QH, QI, QJ, QK and QM.

⁷ Questionnaire QL (my translation).

⁸ See, for example, Observatoire Géopolitique des Drogues (OGD), 'Spain: Drug Gateway to Europe', *The World Geopolitics of Drugs 1998/1999 Annual Report: IV. Europe*, April 2000, p. 89, http://www.ogd.org/2000/en/ogd29_4en.pdf [accessed 24/07/02]; Carlos Resa-Nestares, 'Transnational Organized Crime in Spain: Structural Factors Explaining its Penetration' in Emilio C. Viano (ed.), *Global Organized Crime and International Security*, Aldershot, Ashgate Publishing Ltd., 1999, p. 57; Ernesto U. Savona, *European Money Trails*, Amsterdam, Harwood Academic Publishers, 1999; Library of Congress, *Nations Hospitable to Organized Crime and Terrorism*, Washington D. C., Federal Research Division, Library of Congress, October 2003, p. 8, http://www.loc.gov/rr/frd/pdf-files/Nats_Hospitable.pdf [accessed 09/06/08]; Commission of the European Communities, 'Commission staff working document accompanying the Communication from the Commission to the Council and the European Parliament on an EU Action Plan on Drugs (2009-2012) – Report of the Final evaluation of the EU Drugs Action Plan (2005-2008)',

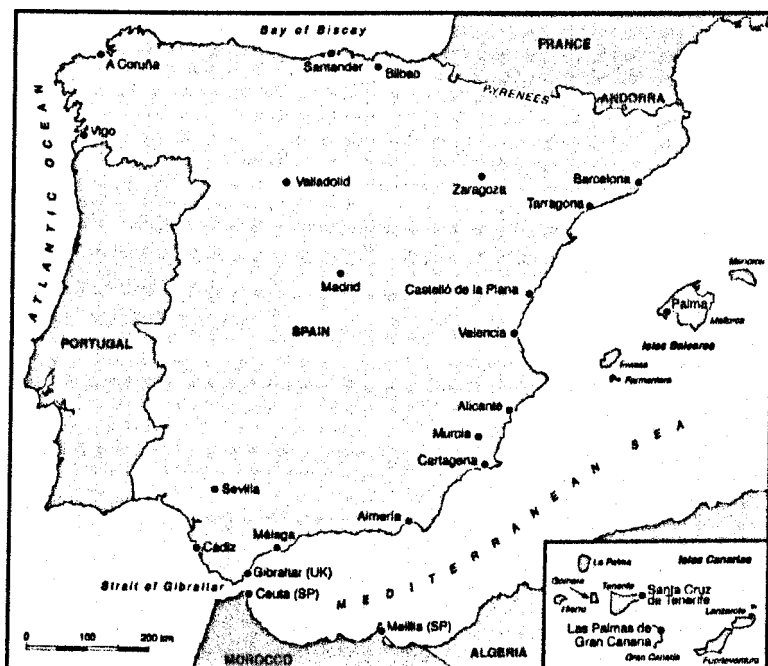


Figure 4 – Map of Spain

Situated in the south west of the European continent, the Spanish mainland borders with France, Andorra, the Pyrenees and the Bay of Biscay in the north; the Mediterranean Sea in the east; Gibraltar, the Mediterranean and the Atlantic Ocean in the south; and Portugal and the Atlantic in the west. The Islas Baleares (Balearic Islands), in the Mediterranean, and the Islas Canarias (Canary Islands), located off the coast of Africa in the Atlantic, are governed by Spain, and Spain also controls a number of territories in northern Morocco, including the enclaves of Ceuta and Melilla and the islands of Peñón de Vélez de la Gomera, Peñón de Alhucemas and Islas Chafarinas⁹. Primarily, then, Spain is considered a natural ‘gateway’¹⁰ or ‘natural bridgehead’¹¹ for drug traffickers (predominantly those from North Africa and Latin America) entering Europe. As De la Torre emphasises, the African coast and the Spanish coast are no more than 15 kilometres apart; Spain’s borders with France and Portugal are, together, more than 1,740 kilometres long; major international airports in Madrid, Barcelona, and so on, form a bridge between three continents (in fact, Spain has good travel connections generally); and the Islas Canarias and Spain’s North African enclaves of Ceuta and Melilla have traditionally been considered as

SEC(2008) 2456, Brussels, 18/09/08, p. 75, <http://register.consilium.europa.eu/pdf/en/08/st13/st13407-ad03.en08.pdf> [accessed 29/09/08].

⁹ See, for example, Central Intelligence Agency (CIA), ‘Spain’, *The World Factbook*, Washington, DC, CIA, [no date], <https://www.cia.gov/library/publications/the-world-factbook/geos/sp.html> [accessed 08/06/08].

¹⁰ Interviews J7 and P3.

¹¹ Savona, *op. cit.*, p. 107. The term ‘natural bridge’ was also used by the professional interviewed in interview J1, and the professional interviewed in interview F2 used the word ‘platform’.

'free territories'¹². Thus, it is not only inevitable that certain drug (and other) traffic will pass through Spain but also, as Resa-Nestares points out, the country is geographically close to the 'logistical bases' of powerful criminal organisations such as the Marseilles clans and the various Italian mafias¹³. Moreover, Spain's 4,200 kilometres of varied coastline (rugged, craggy and uncontrolled in parts) provides numerous coastal landing sites for smugglers and traffickers¹⁴. Friman's research¹⁵ into why some countries emerge as transit states for illegal goods also adds some credence to this argument. He argues that countries that border the target (in this case, Europe), and especially those that serve as coastal access points for landlocked targets, appear to be prime candidates for transit points (especially where goods, for example hashish, are bulky)¹⁶. That geographical factors are commonly given to account for the criminal activity taking place particularly in the coastal regions of the Costa del Sol and Galicia, therefore, can be expected.

Notably, the geographical location of the Costa del Sol (either generally or for a specific reason) is often highlighted as being a significant causal factor of criminal activity and illicit enterprise in this region¹⁷. Several of the interview sources, for example, mentioned the proximity of North Africa to this region as being one of the key facilitating factors of illicit enterprise in the Costa del Sol¹⁸, and considering that the majority of the drugs and people trafficked into Andalucía come from Morocco (as discussed in Chapter 2, and also as detailed in official reports¹⁹), this seems to be a plausible argument. In recent years, Morocco has retained its status as one of the world's main producers of hashish (primarily exporting its crop to Europe)²⁰. Thus, the fact that 70 per cent of the hashish

¹² Carlos de la Torre, 'The Role of Spain's Guardia Civil in Combating Organized Crime and Drug Trafficking' in Susan Flood (ed.), *Illicit Drugs and Organized Crime: Issues for a Unified Europe*, Chicago, IL, Office of International Criminal Justice, University of Illinois, 1991, p. 64.

¹³ Resa-Nestares, *op. cit.*, p. 57.

¹⁴ See De la Torre, *op. cit.*, p. 64.

¹⁵ See H. Richard Friman, 'Just passing through: transit states and the dynamics of illicit transshipment', *Transnational Organized Crime*, Vol. 1, No. 1, 1995, pp. 65-83.

¹⁶ *Ibid.*

¹⁷ See, for example, 'IU denuncia que más de 120 grupos de la mafia internacional operan en la Costa del Sol', *abcdesevilla.es*, 05/01/06, http://www.abcdesevilla.es/hemeroteca/historico-05-01-2006/sevilla/Andalucia/iu-denuncia-que-mas-de-120-grupos-de-la-mafia-internacional-operan-en-la-costa-del-sol_813462096368.html [accessed 10/10/08], quoting Antonio Romero, ex-member of the parliament of Andalucía for political party IU. The geographical importance of this region was also raised during interviews P1, P11, P12, P14, C2, J3, J7, F1 and F2.

¹⁸ Interviews C2, J2, P1, F1, J7 and P11.

¹⁹ See, for example, Library of Congress, *op. cit.*, p. 8, and Commission of the European Communities, *op. cit.*, p. 74.

²⁰ See, for example, United Nations Office on Drugs and Crime (UNODC), *2006 World Drug Report, Volume 2: Statistics*, Vienna, UNODC, 2006, p. 261, http://www.unodc.org/pdf/WDR_2006/wdr2006_volume2.pdf [accessed 18/03/07].

seized in Europe is seized in Spain²¹ is not really surprising given the proximity of North Africa to its southern coast.

Another geographical factor, which is often highlighted as a facilitating factor of illicit enterprise in the Costa del Sol²², is the proximity of Gibraltar to the region (Gibraltar is linked to southern Spain by a narrow isthmus²³ and thus it is only a short drive away from some of the popular western Costa del Sol towns, such as Marbella). Given that Gibraltar is a British self-governing colony, some of the interview sources emphasised the benefits of Gibraltar to British criminal groups in particular, suggesting, for example, that Gibraltar provides a nearby refuge for British criminals settled in the Costa del Sol and one that Spanish police cannot enter²⁴. Several sources also place much emphasis on Gibraltar's status as a tax haven and its potential use by criminal groups of all nationalities for money laundering purposes. For example, one interview source discussed how Gibraltar has several advantages in this respect, such as its many lawyers specialised in money laundering and 'more businesses than people' (thereby providing numerous opportunities to launder money)²⁵; factors that are also highlighted in Spanish press (and other) reports. Indeed, such sources often stress that, within its territory of around just six square kilometres²⁶, Gibraltar has more companies (some 80,000) than residents (between 30,000 and 55,000, depending on the source)²⁷, as well as 19 banks, 10 branches of international companies, 17 insurance companies, more than 30 investment companies or financial brokers, 15 foreign exchange offices, an undetermined number of non-registered foundations and trusts, 115 lawyers and 28 law firms, whose activities are outside the supervision of any financial authority²⁸. Moreover, it was reported in the Spanish press, in

²¹ See, for example, Luis Gómez, *España Connection: La implacable expansión del crimen organizado en España*, Barcelona, RBA Libros SA, 2005, p. 18.

²² For example, during interviews J3, F2 and P11.

²³ See, for example, 'Gibraltar – Home: The Meeting Place of Continents', *andalucia.com*, <http://www.andalucia.com/gibraltar/home.htm> [accessed 04/07/08].

²⁴ This point was particularly raised in Interview P2, for example.

²⁵ Interview M1. Additionally, during interview P14, the 'good conditions' in Gibraltar in terms of money laundering and organised crime were also discussed.

²⁶ See, for example, 'Gibraltar – Home: The Meeting Place of Continents', *op. cit.*

²⁷ See, for example, Luis Gómez, 'La red de blanqueo de dinero desarticulada en Marbella utilizaba más de mil sociedades', *El País*, 13/03/05, pp. 19-20 and 'IU denuncia que más de 120 grupos de la mafia internacional operan en la Costa del Sol', *op. cit.*. In actual fact, the figure for the 'Usually-Resident Population of Gibraltar' (including families of servicemen) in the 2001 census was 28,240 (see Government of Gibraltar, *Census of Gibraltar 2001*, [no date], p. xvi,

http://www.gibraltar.gov.gi/gov_depts/Statistics/Census_of_Gibraltar_2001.pdf [accessed 15/10/08]) and the figure had risen to 28,875 by 2006 (see Government of Gibraltar (Statistics Office), *Abstract of Statistics 2006*, The New Harbours, Gibraltar, Government of Gibraltar Statistics Office [no date], p. 2, http://www.gibraltar.gov.gi/gov_depts/Statistics/2006/Abstract2006-Webpages.pdf [accessed 15/10/08]).

²⁸ Luis Gómez and Jesús Duva, 'España pedirá que Gibraltar vuelva a la lista negra de paraísos fiscales', *elpais.com*, 16/03/08,

http://www.elpais.com/articulo/economia/Espana/pedira/Gibraltar/vuelva/lista/negra/paraisos/fiscales/elpepico/20080316elpepico_1/Tes [accessed 20/10/08]. Slightly different (but generally similar) figures are also given in International Monetary Fund (IMF) (The Legal Department), *Gibraltar: Detailed Assessment Report*

March 2008, that the Spanish authorities were going to request that the Organisation for Economic Co-operation and Development (OECD) revise Gibraltar's status as a 'cooperative' tax haven due, amongst other things, to Spain failing to receive any 'useful' information from Gibraltar in response to requests concerning money laundering matters and because Gibraltar is falling short of European Union (EU) and the Financial Action Task Force's (FATF) standards and requirements in this respect²⁹, accusations that the Gibraltar Government strongly denied³⁰. The same report also stated that experts (including the International Monetary Fund (IMF)) have pointed out that Gibraltar is a particular and dangerous zone of influence (along with areas such as the south of Spain, the Costa del Sol and the north of Africa), where activities related to money laundering, corruption and drug trafficking happen frequently³¹. According to the IMF, the main money laundering risk to Gibraltar is lodged in its professional sector, which is likely to be involved (wittingly or not) in the layering and integration of the proceeds of crime, and there is also some risk, at the placement stage, in connection with drug trafficking, migrant smuggling, and 'organised crime' in southern Spain³².

When assessing the tenability of this aspect (the proximity of Gibraltar) as a facilitating factor of illicit enterprise in the Costa del Sol, it is worth pointing out that some of the major operations carried out by the Spanish police in recent years did, indeed, involve some element of laundering money in Gibraltar, such as the operations *Ballena Blanca*³³ and *Laila*³⁴ (discussed in Chapter 2) and *Operación Hidalgo*³⁵ (which will be discussed in Chapter 4). However, it may also be the case that the Spanish government and its people find it convenient to blame a foreign territory, and the Government of Gibraltar insists that it has a good record in relation to the regulation of financial services and

on *Anti-Money Laundering and Combating the Financing of Terrorism*, IMF Country Report No. 07/157, Washington, DC, IMF, May 2007, <http://www.imf.org/external/pubs/ft/scr/2007/cr07157.pdf> [accessed 20/10/08].

²⁹ Gómez and Duva, *op. cit.*. The point that Gibraltar does not always collaborate with Spain was also raised during interview J8. See also OGD, *op. cit.*, p. 92, http://www.ogd.org/2000/en/ogd99_4en.pdf [accessed 24/07/02].

³⁰ See Government of Gibraltar (Press Office), *Press Release*, Gibraltar, Government of Gibraltar Press Office, No. 57/2008, 17/03/08, http://www.gibraltar.gov.gi/latest_news/press_releases/2008/57-2008.pdf [accessed 20/10/08].

³¹ Gómez and Duva, *op. cit.*. One interview source also stressed the importance of drug trafficking and the smuggling of contraband tobacco in Gibraltar (interview P11).

³² See IMF (The Legal Department), *op. cit.*, p. 5.

³³ See, for example, Gómez, 'La red de blanqueo de dinero desarticulada en Marbella utilizaba más de mil sociedades', *op. cit.* and Izquierda Unida-Los Verdes-Convocatoria por Andalucía (IU-LV-CA), *Aproximación al Crimen Organizado y la Actividad Mafiosa en la Costa del Sol*, II Informe: El Crimen Organizado en la Costa del Sol, Observatorio del Crimen Organizado de IU-LV-CA y Oficina de Comunicación de IU-LA-CA, Boletín no. 2, Febrero de 2008, p. 23, <http://iumalaga2008.org/files/II%20Informe%20Crimen%20Organizado1.pdf> [accessed 06/10/08].

³⁴ See, for example, Javier Martín-Arroyo, 'La policía desmantela en Málaga una red que blanqueó al menos 30 millones del narcotráfico', *El País*, 22/05/05, p. 28.

³⁵ See, for example, IU-LV-CA, *op. cit.*, p. 23.

complies with practically all of the anti-money laundering regulations currently in place³⁶. Moreover, although the IMF found that Gibraltar needed to take some further steps to completely fulfil the FATF's recommendations, it commended the Gibraltar authorities for the resources they have devoted to international cooperation in money laundering cases and other such matters³⁷. Furthermore, one interview source seemed to dismiss the proximity of Gibraltar as a facilitating factor completely, claiming that Gibraltar is simply 'too risky' for the criminals because the border can be shut down at any time³⁸. Thus, it is probably fair to argue that the geographical location of the Costa del Sol, especially in terms of its closeness to North Africa, may facilitate criminal activity in the area. However, the degree to which the proximity of Gibraltar (and the financial and business arrangements in Gibraltar itself) furthers illicit enterprise in the Costa del Sol is more open to debate, and very much dependent on opinion.

Factors relating to the geographical location and characteristics of Galicia are also frequently used to explain contemporary manifestations of illicit enterprise in that region, as well as the traditional smuggling activities that were discussed in Chapter 2³⁹. For example, according to some of the interview sources, the traditional smuggling activities were stimulated by Galicia's proximity to Portugal: one source discussed how the poor relations between Spain and Portugal meant that the people of Galicia found it difficult to get goods from Portugal and so a demand for contraband arose⁴⁰, whilst another suggested that the coastal residents on the border had always collaborated with the smugglers, in various ways, which had facilitated their activities⁴¹. Smuggling activities in Galicia have also been attributed to its location on the Atlantic coast⁴², and this factor is also believed to be a key cause of the extensive drug trafficking activities undertaken in the region. Along with the Portuguese coast, Galicia's Atlantic coast is the first, or the natural, entry point into Europe from Latin America⁴³, from where, as we saw in Chapter 2, virtually all of Europe's cocaine originates. Indeed, as we have seen in the previous chapter, many of the cocaine apprehensions relating to this region have taken place in Atlantic waters.

³⁶ See Government of Gibraltar (Press Office), *op. cit.*

³⁷ See IMF (The Legal Department), *op. cit.*

³⁸ Interview C2.

³⁹ See, for example, Tony Thompson and Giles Tremlett, 'Ruthless, rich and bloody: now Europe's most vicious drug lords target Britain', *guardian.co.uk*, 12/06/05,

<http://www.guardian.co.uk/news/2005/jun/12/internationalnews> [accessed 10/12/08]. The respondents of questionnaires QE, QF, QL and QM also agreed that Galicia has an 'ideal geographical situation' for carrying out organised criminal activities.

⁴⁰ Interview J2.

⁴¹ Interview P17.

⁴² Interviews J1 and P4.

⁴³ Interview J3 and questionnaire QL.

Furthermore, the characteristics of Galicia's coastline are also seen as significant. Physically, Galicia's coastline, which stretches for 1,659 kilometres⁴⁴, is craggy and rugged. It is characterised by high cliffs (over 800 kilometres of them⁴⁵), beaches (constituting nearly 300 kilometres in total⁴⁶) and long, deep inlets or estuaries, known as *rías*⁴⁷ (the largest of these is the Ría de Arousa at 37 kilometres long, with a maximum depth of 69 metres⁴⁸). Many of the interview sources, for example, emphasised how the craggy and rugged nature of the coastline has facilitated the drug trafficking activities undertaken in the region⁴⁹. It would appear that the numerous coves and beaches of the *rías*, many of them deserted, create perfect landing sites for the fishing boats and *planeadoras* that transport the drugs into Galicia⁵⁰, as well as ideal hiding places for drugs and traffickers⁵¹. These areas are also protected by the traffickers' 'lookouts' (which outnumber those of the police)⁵². Therefore, it is very difficult for the authorities to 'control the coast'⁵³. Away from the coast, the region is relatively green and mountainous⁵⁴ (over half of its territory is situated above 400 metres in altitude⁵⁵ and, in total, Galicia's forests represent 30 per cent of the forest mass of the whole of the Spanish territory⁵⁶). Once the drugs reach land and move through Galicia, it then seems that these other geographical characteristics may also aid trafficking activities. Indeed, as judge José Antonio Vázquez Taín said: '[...] from the air we can do nothing'⁵⁷. These geographical aspects, then, have clearly proved to be beneficial for Galicia's smugglers and traffickers (both now and in the past), and the fact that much of the illicit enterprise in Galicia occurs in the coastal provinces of A Coruña

⁴⁴ Turgalicia, 'Galicia: The coast', http://www.turgalicia.es/Presentacion/Costa_i.htm [accessed 16/12/08]. Note, however, that another source from Turgalicia states that Galicia has 1,300 kilometres of coastline. See Turgalicia (Dirección Xeral de Turismo), 'Galicia, Atlantic Destination', *Press Release*, Santiago de Compostela, Turgalicia, [no date], accessed through:

<http://www.turgalicia.es/turnoticias/turnoticias.asp?cidi=I&ctre=turnoticias> [accessed 16/12/08].

⁴⁵ Turgalicia, 'Galicia: The coast', *op. cit.*

⁴⁶ *Ibid.*

⁴⁷ See, for example, Instituto de Turismo de España – Turespaña, 'Galicia: Bathed by a sea and an ocean', *op. cit.*

⁴⁸ Turgalicia, 'Galicia: The coast', *op. cit.* Note, however, that another source from Turgalicia states that the *ría* is around 25 kilometres long, with a surface area of 200 square kilometres. See Turgalicia (Dirección Xeral de Turismo), 'Galicia, Atlantic Destination', *op. cit.*

⁴⁹ Interviews P1, P2, P3, M1, J2, M2 and P17.

⁵⁰ Thompson and Tremlett, *op. cit.*

⁵¹ Interviews M1 and P3.

⁵² Interview M1.

⁵³ Interview P8.

⁵⁴ See, for example, Instituto de Turismo de España – Turespaña, 'Galicia: Bathed by a sea and an ocean', *op. cit.* and Turgalicia, 'Galicia: The land and the people',

http://www.turgalicia.es/ATerracOsHomes/aterracoshomes.asp?cidi=I&menu=12&subMenu_1=1 [accessed 16/12/08].

⁵⁵ Turgalicia, 'Galicia: The inland', http://www.turgalicia.es/Presentacion/inter_i.htm [accessed 16/12/08].

⁵⁶ *Ibid.*

⁵⁷ José María Irujo, 'La gran marea blanca', *El País: Domingo*, 25/01/04, p. 3, quoting José Antonio Vázquez Taín, (at the time) a judge in Vilagarcía de Arousa (Pontevedra).

and Pontevedra (as established by the official sources discussed in Chapter 1) may confirm, to some degree, that location is important in this case.

The presence of immigrant communities in Spain

A further reason that is very frequently given to explain 'organised crime' and illicit enterprise in Spain (although not one that is unique to Spain) relates to immigration and ethnicity. Indeed, in the spirit of the alien conspiracy theory embodied in the hierarchical model discussed in Chapter 1, there is some consensus in the organised crime literature, and in some official reports, that the existence of 'organised crime' in a state can be at least facilitated, or even entirely explained, by the presence of immigrant communities or ethnic enclaves in that state⁵⁸. As Bovenkerk summarises:

Every time signs of organized crime are discovered in modern, urban societies, with striking frequency some ethnic minority [...] is singled out as the source of the trouble.⁵⁹

Although we must be conscious of the extent to which stereotyping and scapegoating feature in examinations of this phenomenon, Bovenkerk's research underlines that there are grounds for 'at least wondering whether there might be some link' between 'organised crime' and ethnicity⁶⁰. Certainly, it is often argued that the network structures used to produce, supply and distribute illicit goods are strengthened by ethnic ties, and that the presence of immigrant communities is beneficial to criminal groups in a number of ways. Ethnic ties, for example, are believed to be functional to 'organised crime' because they maintain solidarity and secrecy and serve as an indicator of trust and loyalty⁶¹, thus enhancing effectiveness and minimising the costs of uncertainty in illicit transactions⁶². Similarly, linguistic and cultural barriers provide a competitive advantage for criminal groups because they ultimately make it more difficult for law enforcement personnel to penetrate the enterprise⁶³ and, on a practical level, for example, police may find it difficult

⁵⁸ See, for example, Frank Bovenkerk, 'Organized Crime and Ethnic Minorities: Is There a Link?' in Phil Williams and Dimitri Vlassis (eds.), *Combating Transnational Crime: Concepts, Activities and Responses*, London and Portland, Oregon, Frank Cass Publishers, 2001, pp. 109-126.

⁵⁹ *Ibid.*, p. 109.

⁶⁰ *Ibid.*, p. 110.

⁶¹ See Damián Zaitch, *Trafficking Cocaine: Colombian Drug Entrepreneurs in the Netherlands*, The Hague, Kluwer Law International, 2002, p. 19; Roger Waldinger, 'The "other side" of embeddedness: a case-study of the interplay of economy and ethnicity', *Ethnic and Racial Studies*, Vol. 18, No. 3, July 1995, p. 561, quoting Lynn Zucker, 'Production of trust: institutional sources of economic structure, 1840-1920', *Research in Organizational Behavior*, Vol. 8, 1986, pp. 53-111; Bovenkerk, *op. cit.*, p. 122; Letizia Paoli, 'The Paradoxes of Organized Crime', *Crime, Law & Social Change*, Vol. 37, 2002, pp. 85-86.

⁶² Boronia Halstead, 'The Use of Models in the Analysis of Organized Crime and Development of Policy', *Transnational Organized Crime*, Vol. 4, No. 1, 1998, p. 21.

⁶³ Phil Williams and Ernesto U. Savona (eds.), *The United Nations and Transnational Organized Crime*, London and Portland, Oregon, Frank Cass & Co. Ltd., 1996, p. 9; Phil Williams, 'The International Drug Trade: An Industry Analysis' in Graham H. Turbiville, Jr. (ed.), *Global Dimensions of High Intensity Crime and Low Intensity*

to recruit suitable interpreters to work at police interrogations or to translate tapped telephone conversations⁶⁴. Ethnicity can also prove useful if a particular ethnic group maintains a historic contempt or distrust for policing, because it then becomes unlikely that police will receive cooperation in the community⁶⁵, yet a lack of cooperation may also stem from the community's solidarity or be a result of intimidation⁶⁶. For the same reasons, victims in the ethnic group may be less likely to seek police intervention, thereby presenting themselves as more helpless targets to criminal groups⁶⁷. It may also be the case that police will simply leave the ethnic group alone for fear of being seen to be, or being formally reproached for, discriminating against minorities⁶⁸. Finally, ethnic enclaves, it is argued, can generally provide cover, local knowledge and recruits for transnational criminal groups⁶⁹.

Perhaps it is not surprising, then, that immigration is often seen as a cause of criminal activity and illicit enterprise in Spain, and especially so if we consider Spain's recent experience in this regard⁷⁰. Huge numbers of immigrants began arriving in Spain during the mid-1990s and, between 1999 and 2005, the number of immigrants settling in the country increased five-fold⁷¹. According to Spain's National Institute of Statistics (*Instituto Nacional de Estadística*) (INE), there were 4,519,554 foreigners registered in Spain's Municipal Registers in 2007⁷², which means that, at that time, legal immigrants constituted roughly ten per cent of Spain's total population, and we really cannot account for the number of illegal immigrants that are also present in the country (although it is estimated that at least one million immigrants live in Spain illegally⁷³). Indeed, it seems that, within the EU, Spain receives the largest flow of immigrants⁷⁴ and, of all the members of the

Conflict, Chicago, Illinois, Office of International Criminal Justice, University of Illinois at Chicago, 1995, p. 165.

⁶⁴ Bovenkerk, *op. cit.*, p. 113; Letizia Paoli and Peter Reuter, 'Drug Trafficking and Ethnic Minorities in Western Europe', *European Journal of Criminology*, Vol. 5, No. 1, 2008, p. 24.

⁶⁵ See Halstead, *op. cit.*, p. 20.

⁶⁶ Bovenkerk, *op. cit.*, p. 113; Paoli and Reuter, *op. cit.*, p. 24.

⁶⁷ See Halstead, *op. cit.*, p. 20.

⁶⁸ Bovenkerk, *op. cit.* p. 113.

⁶⁹ *Ibid.*, p. 123; Williams and Savona, *op. cit.*, p. viii and p. 9; Paoli and Reuter, *op. cit.*, p. 24; Europol, *EU Organised Crime Threat Assessment 2006*, The Hague, Europol, [no date],

[http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_\(OCTA\)/OCTA2006.pdf](http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_(OCTA)/OCTA2006.pdf) [accessed 18/12/06].

⁷⁰ On Spain's experiences of immigration generally, see, for example, John Hooper, *The New Spaniards*, 2nd edition, London, Penguin Books Ltd., 2006, Chapter 21.

⁷¹ See, for example, Katya Adler, 'Spain stands by immigrant amnesty', *BBC News*, 25/05/05, <http://news.bbc.co.uk/1/hi/world/europe/4579127.stm> [accessed 18/03/07].

⁷² See Instituto Nacional de Estadística (INE), 'Población extranjera por sexo, comunidades y provincias y nacionalidad', *Revisión del Padrón municipal 2007. Datos a nivel nacional, comunidad autónoma y provincia*, Madrid, INE, 2008 <http://www.ine.es> [accessed 02/07/08].

⁷³ See, for example, Rocío Ruiz, 'El INE revela que en España vive un millón de inmigrantes irregulares', *La Razón*, 18/01/08, p. 22.

⁷⁴ See, for example, Giampaolo Lanzieri/Eurostat, 'Population in Europe 2007: first results', *Eurostat: Statistics in focus. Population and social conditions*, 81/2008, European Communities, 2008,

http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-08-081/EN/KS-SF-08-081-EN.PDF [accessed 29/09/08]; William Chislett, *Inside Spain No. 51*, Madrid, Real Instituto Elcano, 17/12/08, accessed

OECD, Spain is the second largest receiving country of immigrants behind the USA⁷⁵. Many people in Spain (and quite often the press), therefore, associate crime generally with the recent increase in the number of foreigners living in the country⁷⁶: a 2007 report, for example, revealed that more than 60 per cent of the Spanish population associated crime with immigration⁷⁷. More specifically, several of the interview sources claimed that immigration was a facilitating factor, or even the key cause, of illicit enterprise in Spain⁷⁸. Some of the reasons given during these interviews as to why immigration facilitated illicit enterprise included: the tendency for immigrants to engage in low paid employment ('so they get more money from crime than work'⁷⁹); the possibility that immigration could create 'isolated' communities (presumably for the reasons discussed earlier in this chapter)⁸⁰; the feeling that multiculturalism brings with it a number of 'problems'⁸¹; the association of certain immigrant groups (such as Moroccans) with the drug business⁸²; and the anonymity that the presence of foreigners can provide to criminal groups⁸³. Some of the interviewees, however, simply stated that immigration was a cause, or facilitating factor, of 'organised crime', but gave no reason as to why⁸⁴ and some associated immigration from Eastern Europe, particularly, with 'organised crime'⁸⁵.

Just as immigration is used to account for illicit enterprise in Spain generally, it is also frequently used to explain illicit enterprise in particular regions of Spain. For example, issues relating to immigration and tourism (particularly in terms of the presence of a large number of foreigners as a result of these factors) are commonly viewed as facilitating illicit enterprise in the Madrid region. In Madrid, in recent years, population trends have been

through http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Insidiespain [accessed 17/12/08]; William Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, Spain, Telefónica, S.A., January 2008, p. 11, accessed through http://www.realinstitutoelcano.org/materiales/Spain_Going%20Places%20Chislett.pdf [accessed 09/04/08].

⁷⁵ This is according to data from 2006. See, for example, María Elia Climent, 'España es el segundo mayor receptor de inmigrantes legales', *El Mundo*, 11/09/08, p. 21.

⁷⁶ See Marga Luis, 'Para el 62%, en España hay demasiados inmigrantes', *20 minutos (A Coruña)*, 22/03/07, p. 9, citing a report of the European Commission against Racism and Xenophobia.

⁷⁷ See, for example, Eduardo Ridao, 'Será eficaz el endurecimiento de las penas para combatir la delincuencia organizada?', *La Tribuna del Derecho*, 16/06/06 – 30/06/06, p. 5,

<http://www.tribunadelderecho.com/doc/TD16-5.pdf> [accessed 01/12/08] and David Martínez, 'El crimen organizado elige los asaltos a los chalés de lujo como una de sus prioridades', *ABC*, 08/01/06, p. 24. Note that these particular reports focus predominantly on a quite recent phenomenon relating to violent robberies on houses and dwellings, which are undertaken by criminal groups in some parts of Spain. Many people in Spain (including police officers), as well as the press, regard this kind of activity as constituting 'organised crime'.

⁷⁸ Interviews P3, P4, P6, P13, P14, C1, C2, J2, J5, J7 and M1.

⁷⁹ Interview P13.

⁸⁰ Interview P4.

⁸¹ Interview C2.

⁸² Interview J7.

⁸³ Interview M1.

⁸⁴ Interviews P14 and J5.

⁸⁵ Interviews J2 and P3.

driven by high levels of immigration. As a 2008 report by Observatorio Económico elucidates:

The arrival of substantial numbers of immigrants over the last few years means that there are now 555,000 immigrants living in the city. This represents about 17 per cent of the total population, compared to the 2.8 per cent of the population only eight years ago. On average, nearly 65,000 new foreigners chose Madrid as a place to live during each of the last seven years in a process which, although now slowing down, continues to be significant.⁸⁶

According to the INE, there were actually 866,910 foreigners registered in the Municipal Registers for the Community of Madrid in 2007⁸⁷, which equates roughly to 14 per cent of the Community's population (although this rises to 17 per cent in the city of Madrid⁸⁸ and, according to one of the interview sources, could be more like 30 per cent of the population, 'or more', in some areas⁸⁹). Due to the common language⁹⁰ and the fact that Madrid's Barajas airport is the main European hub for flights to and from Latin America⁹¹, it would appear that Latin, or South, American immigrants are particularly prevalent in Madrid and this was specifically mentioned by some of the interview respondents⁹². The respondents also, however, variously stated that Eastern Europeans, Turks and North (and 'black'⁹³) Africans formed part of the 'melting pot'⁹⁴ that is Madrid⁹⁵. According to the OECD, Madrid's immigrants and foreign workers have been attracted by the region's dynamic and growing economy and, in turn, they have been a 'driving force' behind Madrid's economic success⁹⁶. According to several of the professionals interviewed and

⁸⁶ Observatorio Económico, *Madrid Economía 2007*, Madrid, Ayuntamiento de Madrid (Área de Gobierno de Economía y Empleo), 2008, p. 8, http://www.esmadrid.com/recursos/doc/en/Negocio/ObservatorioEconomico/8229557579_161200885839.pdf [accessed 27/06/08].

⁸⁷ See INE, *op. cit.*. According to this source, however, Madrid was not the only autonomous community with a relatively high number of registered foreigners in 2007. For example, Andalucía had 531,827, Valencia had 732,102, and Cataluña, with 972,507 foreigners, recorded a higher figure than Madrid. The professional interviewed in interview F1, however, estimated that there were one million immigrants in the Madrid region. This figure was also given by the professional interviewed in interview P6, who additionally claimed that ten per cent of the population was foreign.

⁸⁸ Observatorio Económico, *op. cit.*, p. 6 and p. 8.

⁸⁹ Interview P4.

⁹⁰ Interview P8.

⁹¹ Instituto de Turismo de España – Turespaña, 'Madrid: Getting there', <http://www.spain.info/TourSpain/Destinos/TipoI/Como%20Llegar/0/Como%20llegar%20280790001.htm?Language=en> [accessed 29/01/09]. According to Chislett, Madrid concentrates around 35 per cent of total air traffic between Europe and Latin America, and there are 29 daily flights from Madrid to Latin American cities. See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 199.

⁹² This was mentioned in interviews J1, P2, P4 and P8, for example.

⁹³ Interview C2.

⁹⁴ Interview P2.

⁹⁵ Interviews J1, P1, P2, P4 and C2.

⁹⁶ See Organisation for Economic Co-operation and Development (OECD), Public Affairs Division, Public Affairs and Communications Directorate, 'OECD Territorial Reviews: Madrid, Spain', *OECD Policy Brief*, OECD Publishing, January 2008, p. 2 and p. 4, <http://www.oecd.org/dataoecd/3/44/39905260.pdf> [accessed 05/07/08].

questioned during the course of this research, however, it would appear that Madrid's immigrants are also a driving force behind the region's high levels of 'organised crime'⁹⁷.

Similarly, the presence of a large number of foreigners as a result of both immigration and tourism is a factor that is often used to explain illicit enterprise on the Costa del Sol (this point will be discussed further below). The same factors that attract the numerous tourists to this region also attract a number of immigrants, both to the coastal provinces and to the mountain areas surrounding them, which, according to one interview source⁹⁸, makes surveillance work in the latter more difficult for the law enforcement agencies. Thus, throughout the whole region and as one source commented: 'it's not unusual to have a foreign neighbour'⁹⁹, a situation that seems to proliferate year by year if we are to believe to local press (which regularly publishes articles detailing the size of the foreign populations in various municipalities and how these have increased)¹⁰⁰. In fact, in 2007, in Andalucía, there were 531,827 foreigners registered in the Municipal Register and a great proportion of these were registered in the provinces in which the Costa del Sol resorts are located (for example: 219,955 foreigners were registered in Málaga province; 48,874 in Granada; and 36,888 in Cádiz)¹⁰¹. Typically, high levels of immigration in this area¹⁰² are seen as contributing to an anonymous environment where the many foreign criminals active in the region can hide and carry out their illicit enterprises without attracting too much attention.

According to official sources, the majority of the immigrants living in the Spanish territory originate from Morocco, Romania, Ecuador, the UK, Colombia, Bolivia, Germany, Argentina, Italy, Bulgaria and China¹⁰³. As we can see, Latin American immigrants feature quite prominently in this list. Indeed, as Chislett reminds us, Latin

⁹⁷ Immigration was stated as being a cause, or facilitating factor, of 'organised crime' in Madrid in interviews J1, P1, P2, P4, C2, J2, P6, F1 and P8, and questionnaire QD.

⁹⁸ Interview C1.

⁹⁹ Interview J1.

¹⁰⁰ See, for example, 'One in every four people on the Marbella local census is foreign', *Sur in English*, 28/10/05 – 03/11/05, p. 43; Mairelys Ramírez, 'Málaga, la gran capital que más habitantes ha ganado', *20 minutos (Málaga)*, 22/11/05, p. 2; Isabel Jarillo and Agencias, 'Málaga lidera la contratación de extranjeros en Andalucía', *Qué (Málaga)*, 22/11/05, p. 6; 'Una jornada para reflexionar sobre trabajo e inmigración', *El Noticiero*, 02/12/05, p.11.

¹⁰¹ See INE, *op. cit.*

¹⁰² However, it must be noted that Andalucía was not the autonomous community that had the most number of foreigners registered in the Municipal Register in 2007. Other autonomous communities had more. For example, Cataluña registered 972,507 foreigners, Madrid registered 866,910 and Valencia registered 732,102. See INE, *op. cit.*

¹⁰³ This list represents the top eleven countries of origin of immigrants in Spain in 2007 (in that order) (see INE, *op. cit.*) and there has been little change in this since the beginning of 2006. At the start of 2006, the top ten countries of origin of immigrants in Spain were Morocco, Ecuador, Romania, the UK, Colombia, Germany, Argentina, Bolivia, Italy and China (together, these represented 63.52 per cent of all legal immigrants) (see INE, 'Explotación Estadística del Padrón municipal a 1 de enero de 2006. Datos definitivos', INE *Notas de Prensa*, 01/03/07, <http://www.ine.es/prensa/np447.pdf> [accessed 18/03/07]).

Americans account for the largest share (more than one-third) of Spain's immigrants¹⁰⁴ and it is often argued that Colombian communities in Spain have helped make the so-called Colombian cartels one of the most renowned, and most established, of all the criminal groups operating there¹⁰⁵. This is because Colombian organised criminals (just like others from Latin America) benefit from the historic, cultural, linguistic, political and economic links between Spain and Latin America¹⁰⁶. Spanish communities started settling in Latin America from as early as the turn of the twentieth century¹⁰⁷ and, in return, many Colombians settled in Spain, particularly during the 1980s and 1990s. Among these migrants were some key members of the Colombian cartels, such as Carlos Lehder, Gilberto Rodríguez Orejuela and Jorge Luis Ochoa, who settled in Spain after fleeing the pressure exerted on them at home from both the Colombian authorities and the American Drug Enforcement Administration. Once established, they began to make contacts and organise new cocaine markets in Spain and Europe¹⁰⁸. Since then, Colombian criminals have continued to arrive in Spain and, as we have seen in Chapter 2, they have traditionally formed partnerships, and worked with, indigenous Spanish groups in Galicia.

Indeed, just as in other regions of Spain, immigration is a factor that is also often considered important when understanding illicit enterprise in Galicia¹⁰⁹, but for different reasons. Contrary to the trend in many other regions of Spain, the population of Galicia barely increased during the twentieth century and, in comparison with many of the other autonomous communities, Galicia has a relatively small foreign population¹¹⁰. Yet, historically, the region has experienced some significant changes in its population as a result of some considerable waves of immigration and, particularly, emigration. Indeed, in the search for a better life, an estimated 900,000 people left Galicia in the nineteenth century,

¹⁰⁴ See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op.cit.*, p. 13, p. 16 and p. 147. According to INE data, there were: 427,099 Ecuadorians; 261,542 Colombians; 200,496 Bolivians; and 141,159 Argentines, for example, registered in Spain's Municipal Registers in 2007. See INE, 'Población extranjera por sexo, comunidades y provincias y nacionalidad', *op. cit.*

¹⁰⁵ See, for example, Paoli and Reuter, *op. cit.*, p. 24.

¹⁰⁶ See, for example, Resa-Nestares, *op. cit.*. Similar points were also raised during interviews P6, P9, C1, J3 and J7.

¹⁰⁷ See, for example, Savona, *op. cit.*, p. 107; Axel R. Reeg, 'Drugs and the Law in Post-Franco Spain' in Harold H. Traver and Mark S. Gaylord (eds.), *Drugs, Law and the State*, New Brunswick, NJ, Transaction Publishers, 1992, p. 51; Joseph Harrison and David Corkill, *Spain: A Modern European Economy*, Aldershot, Ashgate Publishing Limited, 2008 (reprint), pp. 34-35. See also Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op.cit.*, p. 147.

¹⁰⁸ See Resa-Nestares, *op. cit.*, pp. 52-53.

¹⁰⁹ This point was raised during interviews J2, F2, and P14, for example.

¹¹⁰ According to the INE, the number of foreigners registered in the Municipal Register for Galicia in 2007 was 81,442. To compare with just the other case study regions, for example, there were 866,910 foreigners registered in the Community of Madrid in the same year, 531,827 foreigners registered in Andalucía, and 219,955 in Málaga province alone. See INE, 'Población extranjera por sexo, comunidades y provincias y nacionalidad', *op. cit.*

followed by more than one million in the twentieth century¹¹¹. In total, some 2,500,000 people emigrated from Galicia between 1836 and 1980; a figure that almost equals Galicia's present day population¹¹². Although some of Galicia's people have returned to the region since 1980, due to the recent economic development, it is claimed that there are still currently 1,396,000 of them working all over the world¹¹³. By and large, many of Galicia's emigrants favoured Latin, or South, American countries as their choice of destination¹¹⁴ and, in return, many South American immigrants have settled in Galicia¹¹⁵, perhaps, it is claimed, as a result of the region's fishing industry. For example, during the course of one of the interviews, it was claimed that South American immigrants chose to settle in Galicia because 'they are fishermen and that's where the fishing industry is'¹¹⁶. According to several sources, it is this long history of migration between the two continents, encouraged, undoubtedly, by the common language¹¹⁷, which has facilitated the criminal links between Spain and South America, especially Colombia¹¹⁸. This reasoning is certainly credible and it is easy to understand how the strong ties between Galicia and Colombia that have emerged due to migration (coupled with some associated political and economic links, and the linguistic and cultural commonalities) have facilitated criminal relationships between traffickers across the Atlantic. Furthermore, these circumstances will have given the Colombian traffickers certain advantages when they were looking to establish a new market in Europe and find an initial entry point for their cocaine. Thus, it is easy to understand why immigration and its associated factors are so often used to explain illicit enterprise in Galicia.

As for the other immigrant groups that do not share the language and culture of Spain, the arguments mentioned previously could convincingly facilitate illicit enterprise in Spain (especially the argument that ethnic loyalties and barriers of language and culture can provide built-in defence mechanisms, and so on¹¹⁹). Language issues appear to cause

¹¹¹ Giles Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, London, Faber and Faber Limited, 2006, p. 385. On emigration from Galicia, generally, see also Hooper, *op. cit.*, pp. 268-270.

¹¹² Turgalicia, 'Galicia: Galicia en el mundo', http://www.turgalicia.es/Presentacion/emigra_1.htm [accessed 16/12/08]. For further details about emigration from Galicia, also see Sharif Gemie, *A Concise History of Galicia*, Cardiff, University of Wales Press, 2006, Chapter 2.

¹¹³ Turgalicia, 'Galicia: Galicia en el mundo', *op. cit.*

¹¹⁴ Tremlett, *op. cit.*, p. 385. This point was also raised during interview J2.

¹¹⁵ For example, there were 8,037 Colombians registered in the Municipal Register for Galicia in 2007 (with respect to the foreign population, these Colombians were only outnumbered by Portuguese residents (15,562) and Brazilians (8,236)). See INE, 'Población extranjera por sexo, comunidades y provincias y nacionalidad', *op. cit.*

¹¹⁶ Interview C2.

¹¹⁷ During interviews P2, M1, C2, J3 and P16, for example, it was emphasised how the partnerships between Galicia's organised criminals and their counterparts in Colombia were facilitated by their common language. See also Resa-Nestares, *op. cit.*, p. 59.

¹¹⁸ Interview J2.

¹¹⁹ Indeed, a similar point to this was raised during interview C1.

particular problems, with some Spanish police stations lacking permanent interpreters. Indeed, a press report published in 2004 showed how, at best, it can take a minimum of 24 hours to have a tapped telephone conversation translated into Spanish¹²⁰. As we can also see, Moroccan and Romanian immigrants take first and second places respectively on the list of immigrants given above¹²¹. The fact that 889 Romanians and 767 Moroccans were found to be participating in 'organised crime' groups in Spain in 2005 (these figures only being topped by the number of Spanish nationals)¹²² perhaps, then, gives credence to the argument that the presence of a large number of immigrant communities is a further explanation for criminal activity in the country.

Spain's economy and the nature of its industry

As noted at the beginning of this chapter, it is also commonly argued that economic factors can explain the existence of illicit enterprise in Spain. Economically, post-Franco Spain has progressed enormously. As Chislett reminds us, its formerly autarchic economy is now the seventh-largest in the developed world on the basis of market exchange rates (the eighth globally if China is included) and one of the most 'open' economies (in terms of exports and imports as a percentage of Gross Domestic Product (GDP))¹²³. Moreover, since Franco died, the economy has grown 150 per cent in real terms, and Spain now accounts for two per cent of world trade and is the sixth-largest net investor abroad¹²⁴. The structure of the Spanish economy has also changed. As the importance of agriculture has declined¹²⁵, the importance of services has increased¹²⁶. Spain has the world's eighth-largest motor industry¹²⁷, two of the biggest banks in Europe¹²⁸ and, of course, a hugely significant tourism industry¹²⁹. Notably, the construction sector has

¹²⁰ Luis Gómez, 'La costa del crimen organizado', *El País*, 12/12/04, pp. 1-3.

¹²¹ According to INE data, there were 582,923 Moroccans and 527,019 Romanians registered in Spain's Municipal Registers in 2007. See INE, 'Población extranjera por sexo, comunidades y provincias y nacionalidad', *op. cit.*

¹²² *España. Delincuencia Organizada / 2005*, internal annual report on organised crime in Spain produced by the Spanish police forces (unpublished).

¹²³ Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 9, citing EIU forecasts.

¹²⁴ *Ibid.*

¹²⁵ In 1960, 41 per cent of the working population was employed in agriculture. This compares with: 29 per cent in 1970; 22 per cent in 1975 (2.8 million people); and 4.8 per cent in 2006 (generating close to four per cent of Gross Domestic Product). See *ibid.*, p. 79. See also Economist Intelligence Unit (EIU), *Country Profile 2007: Spain*, London, EIU Limited, 2007, p. 30, <http://0-web.ebscohost.com.wam.leeds.ac.uk/ehost/results?vid=7&hid=109&sid=2a87a541-e673-4ec9-a282-19b44c303871%40sessionmgr106> [accessed 08/06/08]; Harrison and Corkill, *op. cit.*, Chapter 3.

¹²⁶ See EIU, *op. cit.*, pp. 21-22.

¹²⁷ See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 82, citing OICA and Ward's.

¹²⁸ *Ibid.*, p. 79.

¹²⁹ According to Chislett, not only does the tourism sector employ around two million people (roughly one in every ten people with a job) and generate around 12 per cent of GDP, but it also played a role in Spain's democratic development (as it brought Spaniards into contact with different people and ideas and broadened

become 'one of the mainstays of the Spanish economy'¹³⁰. Some of the professionals interviewed or questioned during the course of this research¹³¹ believed that the recent and notable growth in Spain's economy (which one source called the 'Spanish miracle'¹³²), and its subsequent stability, had attracted criminal groups to the country. One source also saw the changing nature of the country's economy, and the decline of some traditional activities (such as fishing), as a cause of criminal activity¹³³.

Economic growth is a factor that is particularly used to explain illicit enterprise in Madrid. Since the mid-1990s, the Madrid region has enjoyed one of the highest expansions of economic growth in Europe¹³⁴ and, even in the mid-1980s, Madrid was identified as being one of the fastest growing regions of Spain, with a self-sustaining development capacity¹³⁵. Undoubtedly, the 'strength of the dynamic Madrid economy clearly stands out in Spain'¹³⁶ and, economically, Madrid 'is one of the richest regions in the country'¹³⁷. Madrid is one of the seven regions of Spain where GDP per head is above the national average¹³⁸, and the GDP per capita for the city of Madrid, measured both in nominal terms and in purchasing power, is the highest in Spain¹³⁹. The growing economy of Madrid is characterised by a high level of specialisation in service sector industries¹⁴⁰, particularly those related to transport and communications, business services, financial services, property services, and health and education¹⁴¹. Tourism is also important, and growing, especially in the city of Madrid: Madrid is now the fourth most popular tourism destination

their horizon [...]']. See *ibid.*, p. 87. See also Joaquín Manso, 'El sector turístico se ve perjudicado por la "falta de respeto" al español', *El Mundo*, 08/07/08, p. 1.

¹³⁰ The Construction sector directly employs more than 2.5 million workers (which is 14 per cent of the labour force and double the euro zone average) and generates more than 17 per cent of GDP. See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 83.

¹³¹ Interviews J2, J3 and P9 and questionnaire QC.

¹³² Interview J2. The interviewee emphasised that: 'In 15 years, Spain became one of the richest countries in Europe'.

¹³³ Questionnaire QC.

¹³⁴ According to the OECD, for example, between 1995 and 2005, Madrid registered an average annual growth rate of 3.7 per cent, which was above Spain's 3.3 per cent, and twice the average growth rate of the EU for the same period. See OECD, Public Affairs Division, Public Affairs and Communications Directorate, *op. cit.*, p. 2. According to Observatorio Económico's 2007 report (published in 2008), during the period 2000-2006, the growth rate of the Madrid region exceeded that for Spain as a whole by 1.4 percentage points, and that of the European Monetary Union by almost 13 per cent. Moreover, Madrid has been the Spanish region that has grown the most over the last three years, by 12.1 per cent, compared with a national average of 11 per cent. See Observatorio Económico, *op. cit.*, p. 13.

¹³⁵ See Harrison and Corkill, *op. cit.*, pp. 186-187, quoting J. A. Zaragoza Rameau, 'Los desequilibrios regionales en España: su corrección', *Economía Industrial*, Vol. 269, 1989, pp. 63-73.

¹³⁶ Observatorio Económico, *op. cit.*, p. 13.

¹³⁷ Hamilton M. Stapell, 'Reconsidering Spanish nationalism, regionalism, and the centre-periphery model in the post-Francoist period, 1975-1992', *International Journal of Iberian Studies*, Vol. 20, No. 3, 2007, p. 176. See also Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, pp. 46-47.

¹³⁸ The seven regions are: Madrid, Navarra, País Vasco, Cataluña, Islas Baleares, La Rioja and Aragón. See EIU, *op. cit.*, p. 29.

¹³⁹ Observatorio Económico, *op. cit.*, p. 14.

¹⁴⁰ Service sector activity comprised 82.1 per cent of the total activity of the city of Madrid in 2006. See *ibid.*, p. 10, using figures published by the DG Statistics of Madrid City Council.

¹⁴¹ Observatorio Económico, *op. cit.*, p. 6 and p. 11.

in Europe (after London, Paris and Rome)¹⁴². Tourism, which is particularly related to business activities, conferences and trade fairs¹⁴³, provides employment for a significant proportion of the region's population¹⁴⁴ and, in 2007, this activity contributed 12,230 million euros to the Madrid economy (6.3 per cent of the region's GDP)¹⁴⁵. Furthermore, the construction sector has been very active in recent years¹⁴⁶. Indeed, in 2006, for example, it was this sector of the region's economy that experienced the most growth¹⁴⁷. The Madrid region is also the third in Spain in terms of the export of goods (behind Cataluña and Valencia), the second (behind Cataluña) in terms of imports¹⁴⁸, and it holds first place when it comes to attracting investment from abroad¹⁴⁹. The rate of company start-ups in Madrid is the highest in Spain¹⁵⁰, many of Spain's largest companies have their head offices in the region, and Madrid is also Spain's leading financial centre¹⁵¹.

Economically, therefore, Madrid is one of the most important and dynamic regions within in Spain. Additionally, as the capital city accommodates the headquarters of the Public Administration, and is home to the central Spanish Government, the Spanish Parliament and the Spanish royal family, Madrid is also 'the focal point for both national and international politics'¹⁵².

When asked to comment on (what they perceived to be) the causes, or facilitating factors, of 'organised crime' in Madrid, many of the professionals interviewed or questioned during the course of this research included the statement 'it's the capital'¹⁵³ as part of their answer, and it would, indeed, appear to be the case that many of the common reasons given to explain illicit enterprise in this region relate to Madrid's status as the capital city of Spain and the circumstances, issues and consequences that have occurred, or do occur, as a result of this. For example, some of the sources highlighted the fact that

¹⁴² OECD, Public Affairs Division, Public Affairs and Communications Directorate, *op. cit.*, p. 3. See also Observatorio Económico, *op. cit.*, p. 6 and p. 11.

¹⁴³ Major investment has been made in congress and exhibition centres, and the region ranks among the top ten places worldwide for international conferences. See OECD, Public Affairs Division, Public Affairs and Communications Directorate, *op. cit.*, p. 3. See also Observatorio Económico, *op. cit.*, p. 6.

¹⁴⁴ This is particularly in the hotel and catering industry, transport, and the leisure industry. See Observatorio Económico, *op. cit.*, p. 11. It has been reported that tourism provided work for some 192,828 *madrileños* in 2007. See Alejandro López, '200.000 personas viven del turismo en la región', *aDn (Madrid)*, 17/07/08, p. 4, citing a report by Impactur.

¹⁴⁵ See López, *op. cit.*

¹⁴⁶ Construction activity comprised 9.6 per cent of the total activity of the city of Madrid in 2006. See Observatorio Económico, *op. cit.*, p. 10, using figures published by the DG Statistics of Madrid City Council.

¹⁴⁷ Observatorio Económico, *op. cit.*, p. 13.

¹⁴⁸ In 2006, the Madrid region accounted for 10.7 per cent of the exports and 21.9 per cent of the imports of Spain as a whole. See *ibid.*, p. 24.

¹⁴⁹ In 2006, the Madrid region attracted 75.3 per cent of all Spain's investments and 43.2 per cent of investments made by other countries in Spain. See *ibid.*, p. 25.

¹⁵⁰ See *ibid.*, p. 13.

¹⁵¹ See *ibid.*, p. 21.

¹⁵² Stapell, *op. cit.*, p. 176.

¹⁵³ Interviews J1, J4, F1, P1, P8, P9 and P14, and questionnaire QD.

Madrid is a large city with a very concentrated population¹⁵⁴, which it certainly is. Indeed, the region, as a whole, has experienced high levels of growth in its population over the last few years¹⁵⁵ and, now, it is home to more than 13.5 per cent of Spain's national population¹⁵⁶. Some of the interview respondents claimed that Madrid's concentrated population makes it easier for criminals to 'hide' there¹⁵⁷ and provides numerous customers for drugs, and a lot of property and vehicles to steal¹⁵⁸. Furthermore, some of the sources argued that, in every large group or city, there is a percentage of crime¹⁵⁹ (as one source claimed, 'it's natural'¹⁶⁰). Predominantly, however, many of the interview sources seemed to correlate the financial and economic opportunities available in the capital with the existence of illicit enterprise in Madrid. Many respondents, for example, highlighted the economic conditions and circumstances discussed above and pointed to the growth and strength of the Madrid economy and the fact that Madrid is the centre of business and industry, as well as one of the richest regions of Spain¹⁶¹. Thus, according to these sources, the economic attributes that attract businesses and workers to the region also attract criminals: further, these conditions mean that 'it's logical that organised crime goes there'¹⁶². Moreover, some of the respondents argued that, as the capital, Madrid has more facilities than other regions, which can be used and exploited by criminals. For example, the fact that Madrid has many lawyers' offices was mentioned by one source¹⁶³. Indeed, another of the interview sources claimed that some lawyers in the Madrid region work for 'organised' criminals¹⁶⁴ (and the respondent of one questionnaire agreed that there were corrupt lawyers in Madrid¹⁶⁵), and one respondent discussed how lawyers' offices were used for money laundering purposes¹⁶⁶. Mostly, however, this point was made in relation to the region's transport facilities¹⁶⁷, which effectively link the region with the rest of Spain, Europe and the world¹⁶⁸. Certainly, this point seems a very valid one: we have already seen

¹⁵⁴ Interviews P1 and J2, and questionnaire QD.

¹⁵⁵ According to the OECD, for example, the population grew by 15.4 per cent in 2000-2006. See OECD, Public Affairs Division, Public Affairs and Communications Directorate, *op. cit.*, p. 2.

¹⁵⁶ *Ibid.*

¹⁵⁷ Interview C2. A similar point was also raised during interview P1.

¹⁵⁸ Interview J2.

¹⁵⁹ Interview P8 and questionnaire QD.

¹⁶⁰ Interview P8.

¹⁶¹ Interviews P1, C2, P3, P4, J2, P5 and P14.

¹⁶² Interview P14.

¹⁶³ Interview P10.

¹⁶⁴ Interview P9.

¹⁶⁵ Although he doubted whether there was more 'organised crime' in the region as a result of this. Questionnaire QD.

¹⁶⁶ Interview F2.

¹⁶⁷ Interviews C2, P10 and P14.

¹⁶⁸ See, for example, Observatorio Económico, *op. cit.*, p. 6; Instituto de Turismo de España – Turespaña, 'Madrid: Getting there', *op. cit.* and Instituto de Turismo de España – Turespaña, 'Madrid: Transport networks'.

in Chapter 2 how drugs frequently enter Madrid through Barajas airport¹⁶⁹, and there is some evidence that Madrid's public transport network is used for the transit of drugs¹⁷⁰. Indeed, although some of the reasons discussed above seem somewhat superficial, there appears to be no evidence to suggest that they would not facilitate illicit enterprise in Madrid, and it is reasonable to see how they could attract criminals to the region and provide a beneficial environment for criminal activity.

Economic factors may also facilitate illicit enterprise in Galicia (but for very different reasons than in Madrid). One of the interview respondents, for example, claimed that the economy was a 'fundamental' cause of 'organised crime' in the region¹⁷¹. Galicia has been described as one of Spain's 'low-growth, backward regions'¹⁷². As Tremlett points out: 'Progress came later to Galicia than the rest of Spain'¹⁷³ and, it seems, (despite some notable developments in recent years) its economy still shows signs of late development¹⁷⁴. Economically, the region was traditionally dependent on agriculture and fishing and these sectors are still important today. For example, although less than one fifth of Galicia's population currently works in the agricultural sector (compared with 1975, for example, when about half of the population worked in this sector), this is still more, relatively speaking, than in Spain as a whole¹⁷⁵. With its origins in fishery salting and preserves, the agro-food industry has the largest number of companies and employees¹⁷⁶ and almost one half of the boats in Spain's fishing fleet (the largest in Europe) are concentrated in Galicia¹⁷⁷. Vigo is Europe's largest fishing port¹⁷⁸ and Galicia's *rias* are the world's largest producers of mussels¹⁷⁹. The shipbuilding industry is also important¹⁸⁰ and, as a result of Galicia's strategic position (on sea routes), the automobile sector has become Galicia's

<http://www.spain.info/TourSpain/Destinos/CCAA/MasInfo/0/Infraestructuras%2013.htm?Language=en> [accessed 29/01/09].

¹⁶⁹ The respondent of questionnaire QD also indicated that Madrid's airport facilitated organised criminal activities.

¹⁷⁰ For example, in 2005, police detained a man at Madrid's South Bus Station with 2.2 kilograms of cocaine in his luggage. See José L. Muñoz and N. de Cardenas, 'Barajas se está convirtiendo en el mayor punto de entrada de cocaína', *Qué! (Málaga)*, 17/11/05, p. 8.

¹⁷¹ Interview P15.

¹⁷² See Harrison and Corkill, *op. cit.*, pp. 186-187, quoting J. A. Zaragoza Rameau, 'Los desequilibrios regionales en España: su corrección', *Economía Industrial*, Vol. 269, 1989, pp. 63-73.

¹⁷³ Tremlett, *op. cit.*, p. 370.

¹⁷⁴ Gemie, *op. cit.*, p. 127.

¹⁷⁵ *Ibid.*

¹⁷⁶ Turgalicia, 'Galicia: The work', http://www.turgalicia.es/Presentacion/traball_i.htm [accessed 16/12/08].

¹⁷⁷ The majority of these are small local vessels. See EIU, *op. cit.*, p. 31.

¹⁷⁸ See *ibid.* and Turgalicia (Dirección Xeral de Turismo), 'Galicia, Atlantic Destination', *op. cit.*. See also 'Vigo, motor del eje atlántico', *El País*, 12/06/05, p. 24.

¹⁷⁹ Turgalicia (Dirección Xeral de Turismo), 'Galicia, Atlantic Destination', *op. cit.*

¹⁸⁰ For example, the company Navantia has an important shipyard in Ferrol (A Coruña), which employs 2,349 people. Mainly, the company builds military ships for the Spanish navy (and others). However, it also undertakes repairs of other kinds of vessel. See, for example, 'Navantia: Buques desde Ferrol para la Armada española', *Cinco Días: Galicia*, 16/04/08, p. 6. In terms of exports, the naval business is the fourth most important in Galicia. See S. Acosta and A. Simón, 'Un amplio tejido empresarial', *Cinco Días: Galicia*, 16/04/08, pp. 6-7.

leader in terms of income and exports¹⁸¹. Additionally, construction in Galicia is growing faster than in most of the rest of Spain and there has also been some expansion in the tourist sector¹⁸². Such developments meant that, in 2007, Galicia reached third place in respect of the autonomous communities of Spain that had experienced the most growth, with the industrial sector (followed by the services sector) being the main driving force of the economy¹⁸³. Thus, economically, it is undoubtedly the case that Galicia has developed very noticeably in the last few years, and is likely to continue doing so. Moreover, Sharif Gemie's observation is certainly true. He states:

While economists and sociologists will still argue that Galicia is a relatively deprived area within the EU, no one could doubt the extent to which Galicia has changed in recent decades [...].¹⁸⁴

Nevertheless, it can be argued that the numbers working in industry and the services in Galicia are still significantly lower than in the rest of Spain¹⁸⁵, wages are low¹⁸⁶ and, although there have been some signs of improvement in recent years, unemployment has often been regarded as a serious problem¹⁸⁷. Furthermore, although Galicia does not feature at the bottom of the tables in terms of Spain's poorest regions, its level of wealth is well below the Spanish average¹⁸⁸, and there are 'many indications that Galicia remains relatively deprived'¹⁸⁹. This perception of Galicia as a 'deprived' and 'backward' region was confirmed during several of the interviews undertaken for this research. Indeed, the picture of Galicia that emerged from these was one of a very poor region with low employment, with the main legal economic activities being based around agriculture and

¹⁸¹ See, for example, Turgalicia, 'Galicia: The work', *op. cit.*; 'PSA-Peugeot Citroën: Puesta a punto para un nuevo lanzamiento', *Cinco Días: Galicia*, 16/04/08, p. 6.

¹⁸² Gemie, *op. cit.*, p. 128.

¹⁸³ The growth rate was 4 per cent (the national average was 3.8 per cent). See Marcos Ezquerria, 'Avances en el reto de converger en desarrollo', *Cinco Días: Galicia*, 16/04/08, p. 2.

¹⁸⁴ Gemie, *op. cit.*, p. 140.

¹⁸⁵ *Ibid.*, p. 128.

¹⁸⁶ According to Gemie, for example, in late 2004, the average Spanish worker earned 1,641 euros per month, while in Galicia the average monthly salary was 1,391, the third lowest of the seventeen autonomous communities. See *ibid.*, p. 129.

¹⁸⁷ Gemie argues, for example, that, in 1999 and 2000, unemployment levels were, on average, higher in Galicia than in the rest of Spain (a problem that was felt particularly by industrial workers). He also argues, however, that, in 2004, there was a sustained seven-month period in which new jobs in services and industry more than compensated for the loss of work in the agricultural and fishing sectors. See *ibid.*

¹⁸⁸ For example, in terms of Spain's regional per capita Gross Domestic Product (GDP) in 2004 (GDP per inhabitant, 2004 PPS, EU-27 = 100), Galicia scored 81.0. Only three regions had scores below this: Andalucía (77.6); Castilla-La Mancha (79.1); and Extremadura (67.1). Madrid had the highest score at 132.1. See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 47, citing *Eurostat*. By 2007, Galicia had experienced some growth in this respect: the GDP per inhabitant was 19.800 euros. However, it was still below the Spanish average (23.396 euros) and only the regions of Murcia, Castilla-La Mancha, Andalucía and Extremadura were poorer/worse off. See INE, 'Contabilidad Regional de España base 2000 (CRE-2000). Producto Interior Bruto regional. Año 2007. Principales resultados', *INE Notas de Prensa*, 26/03/08, p. 3, <http://www.ine.es/prensa/np495.pdf> [accessed 04/07/08].

¹⁸⁹ Gemie, *op. cit.*, p. 129. Here, Gemie points to indicators such as low house prices and poor internet access.

fishing¹⁹⁰. Specifically, during some of the interviews, it was emphasised how the people of Galicia, therefore, have to work very hard in manual jobs, but still earn very little and this, it was claimed, is another reason why some of Galicia's citizens are tempted into criminal activities¹⁹¹ for, in contrast to the honest population, the gangs involved in illicit enterprise are perceived as being very powerful and very rich¹⁹² and smuggling and trafficking activities have brought wealth to some citizens and parts of the region¹⁹³.

Furthermore, Galicia's dependence on the fishing and seafood industries is also seen to play a part in the criminal activities carried out there. For example, it was claimed during one interview that these traditional industries have made the people of Galicia 'good sailors'¹⁹⁴ and that the vast number of boats present in the region have proved advantageous to criminals because it is difficult for the authorities to identify those which are legitimate fishing boats and those which are not¹⁹⁵. Moreover, the criminal clans make use of the numerous *bateas* (the platforms used to cultivate mussels in the *rias*) for their smuggling and drug trafficking activities¹⁹⁶ and, unlike the police, the traffickers know every path and sea route to these mussel platforms and are capable of driving and sailing at night, without lights, which makes it very difficult for the police to catch them¹⁹⁷. The fact that the traffickers also typically use faster boats than the police¹⁹⁸ creates a situation, according to one interview source, where it becomes a 'cat and mouse game between the mussel platforms'¹⁹⁹. It is conceivable, then, to accept that Galicia's traditional industries, particularly fishing, may facilitate the trafficking activities of its clans, and the late development of Galicia, economically, may, indeed, have tempted some of its citizens into illicit activities.

For many, however, what makes Spain really attractive to criminal groups, is the nature of its industry, which comprises of a significant tourism sector and a major construction industry, as both industries facilitate, and are typically used for, money laundering²⁰⁰. Again, this is certainly a credible argument. In 2007, around 59.2 million international tourists arrived in Spain, making it the world's second most popular

¹⁹⁰ Interviews P2, M1, C2, P4, J2, J4, F1, F2, P8 and P15. This was also identified in questionnaires QE, QF and QL.

¹⁹¹ Interviews J2, J4 and M2. A similar point was also made in questionnaire QL.

¹⁹² Interview P2.

¹⁹³ This issue was also seen as a facilitating factor by the professional interviewed in interview P17.

¹⁹⁴ Interview P4. A similar point was also raised during interviews P8 and P16.

¹⁹⁵ Interview P3.

¹⁹⁶ Interviews P15 and P17.

¹⁹⁷ Interviews M1 and J2.

¹⁹⁸ During interview M1, for example, it was claimed that the boats used by the traffickers run around 60-70 mph, whilst the police ships only run around 40-45 mph.

¹⁹⁹ Interview M1.

²⁰⁰ See, for example, Resa-Nestares, *op. cit.*, p. 58 and Luis Gómez, 'La semana record de la lucha contra el blanqueo', *El País*, 17/04/05, p. 32. Similar points were also raised during interviews P14, J3, J7 and F1.

destination behind France in terms of both arrivals and receipts²⁰¹. In fact, every year, Spain is accustomed to setting new records for the number of international tourist arrivals²⁰², and the World Tourism Organization projects that the number of tourists visiting Spain will reach 74 million in 2020²⁰³. As far as construction is concerned, the number of housing starts averaged more than 600,000 per year between 1999 and 2006, and the peak of 800,000 new homes built in 2006 was more than in France, Germany, the United Kingdom (UK) and Italy combined²⁰⁴ – a situation which has resulted in some commentators using the expression ‘urban-development tsunami’²⁰⁵ to describe the recent intense increase in housing development in Spain. In fact, according to Chislett:

More cement has been consumed in recent years in Spain than anywhere else in Europe and the fifth-largest amount worldwide after China, India, the US and Japan; almost everywhere you turn the skyline is dominated by construction cranes.²⁰⁶

As we have seen in Chapter 2, the real estate sector is, indeed, one of the most utilised channels for money laundering by criminal organisations in Spain, and construction and urban activity was viewed as a facilitating factor of illicit enterprise by several of the interview and questionnaire sources²⁰⁷. Tourism was mentioned frequently too²⁰⁸. Tourism brings with it large volumes of foreign currency, which facilitates money laundering, and investing in real estate, hotels, restaurants and other services related to tourism is another effective way to clean dirty money, or mix it with legitimate money, because restaurants, and so on, can act as ‘front’ businesses. Moreover, the construction and tourism sectors also have other advantages. Along with some of the interview sources, Resa-Nestares, for example, makes the very valid point that the large number of foreign tourists, which are present in Spain at all times of the year, provides an anonymous environment for foreign

²⁰¹ See World Tourism Organization (UNWTO), *Tourism Highlights 2008 Edition*, UNWTO, [no date], p. 6, http://unwto.org/facts/eng/pdf/highlights/UNWTO_Highlights08_en_HIR.pdf [accessed 16/03/09] (note that these are provisional figures).

²⁰² See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 87. In 2008, however, tourism figures declined for the first time since 1995. See William Chislett, *Inside Spain No. 53*, Madrid, Real Instituto Elcano, 18/02/09, accessed through http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Insidespain [accessed 18/02/09], citing Instituto de Estudios Turísticos.

²⁰³ See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 87, citing World Tourism Organization.

²⁰⁴ See *ibid.*, p. 83.

²⁰⁵ See Fernando Jiménez, ‘Building Boom and Political Corruption in Spain’, *South European Society and Politics*, Vol. 14, No. 3, 2009, p. 263, citing R. Fernández Durán, *El tsunami urbanizador español y mundial*, Madrid, Marcial Pons, 2006.

²⁰⁶ Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 83. A similar point was also raised during interview P14.

²⁰⁷ Interviews P7, P9, J1 and L2 and questionnaires QA, QB and QC.

²⁰⁸ Tourism, generally, was mentioned as a facilitating factor of organised crime in interviews J3, P9 and P11 and in questionnaires QA, QB and QC. The OGD also claims that Spain’s role in the international trafficking of drugs is due to (amongst other factors) the tourist industry (but does not specifically state why). See OGD, *op. cit.*, p. 89.

criminals²⁰⁹. Contributing to this, the recent construction boom on the *costas* has saturated the Mediterranean coast with urbanisations, where foreigners have holiday or second homes (27.5 per cent of land within two kilometres of the Mediterranean is now built upon²¹⁰ and around two million Spanish homes are owned by foreigners²¹¹). Moreover, one of the professionals interviewed during the course of this research argued that tourism may facilitate illicit enterprise in Spain's most popular tourist areas because law enforcement attention and resources may be more focussed on minor 'law and order' issues, such as policing the holidaymakers who misbehave, than on 'trying to look at the major criminals there'²¹².

The importance of the tourism and construction sectors is often considered to be specifically important in the case of the Costa del Sol²¹³ and may explain, to a degree, why criminals choose to operate in this particular region. The construction sector makes a particularly significant economic contribution to the Costa del Sol²¹⁴ – in fact, construction is classed as the most important industrial activity, and practically the only industrial activity in some municipalities²¹⁵. Between 1999 and 2003, there were more new properties built in the province of Málaga than in any other region of Spain²¹⁶, and the majority of these are

²⁰⁹ Interviews P1, P13, C1, J1, J3 and J7; Resa-Nestares, *op. cit.*, pp. 59-60.

²¹⁰ This figure has increased from 22 per cent in 2005 and 16 per cent in 1987. The amount of land near to all of Spain's coastline upon which homes were built between 2000 and 2005 increased by 22 per cent. See Chislett, *Inside Spain No. 51*, *op. cit.*, citing a satellite survey by the National Geographic Institute, part of the Public Works Ministry.

²¹¹ See Stephen Burgen, 'Pirates of the Mediterranean', *Times Online*, 30/07/06, http://www.timesonline.co.uk/tol/life_and_style/article690365.ece [accessed 14/11/06].

²¹² Interview C1.

²¹³ For example, during interviews J1, P1 and P12, tourism was highlighted as being a key cause of 'organised crime' in this region.

²¹⁴ EURES (the European Job Mobility Portal), 'Labour Market Information. Spain – Andalucía', <http://www.europa.eu.int/eures/main.jsp?lang=en&acro=imi&catId=452&countryId=ES®ionId=ES6&langChanged=true> [accessed 04/07/08].

²¹⁵ See Asociación MADECA, Mancomunidad Costa del Sol Occidental and Area de Juventud, Deportes y Formación de la Diputación Provincial de Málaga, *I Informe Diagnóstico de la Costa del Sol Occidental*, [no date], p. 57,

<http://www.plancostadelsol.org/docs/I%20Informe%20Diagnostico%20de%20la%20Costa%20del%20Sol%20Occidental.pdf> [accessed 07/08/08].

²¹⁶ In the province of Málaga, there were 5,630 housing starts in 1991 and, twelve years later in 2003, this figure had multiplied fourteen times to 83,274 (exceeding the figures for provinces such as Madrid and Barcelona). Although Málaga province fell to fourth place in the ranking of housing starts in 2004 (with 42,214 properties), and to sixth place in 2006 (with 32,794 properties), this still reflects a high level of urban activity in this region and one which does not correspond even with the region's increase in population. See José Luis Díez Ripollés and Alejandra Gómez-Céspedes, 'La corrupción urbanística: Estrategias de análisis', *Revista Española de Investigación Criminológica*, Artículo 5, No. 6, 2008, p. 8, [http://www.criminologia.net/pdf/reic/REICA5N6\(2008\).pdf](http://www.criminologia.net/pdf/reic/REICA5N6(2008).pdf) [accessed 11/08/08], quoting data from the Spanish Ministry of Housing (Ministerio de Vivienda, *Número de viviendas libres iniciadas: Serie 1991-2006*, *Viviendas libres por comunidades autónomas y provincias*, Madrid, 2007, <http://www.mviv.es/cs/>). According to Chislett, 313,000 homes were built in the province between 1996 and 2005. See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 88. It is also interesting to note here that, since 2007, there has been a gradual downturn in terms of the construction, promotion and buying and selling of property in Spain generally. For data concerning the fall in construction of new properties in the province of Málaga since 2007 see Jesús Hinojosa, 'La construcción de viviendas sufre una fuerte caída en el primer trimestre del año', *sur.es*, 17/04/07, <http://www.dianosur.es/prensa/20070417/malaga/construccion->

located along the coastal strip (by 2007, 59.5 per cent of land within the 500 metre strip away from the coastline in Málaga province had already been built upon or developed²¹⁷). The extensive building work and high level of construction in this region is considered as fundamentally important by some sources, as it is common to invest in property here for money laundering purposes²¹⁸. The examples given in Chapter 2 (and others that will be discussed elsewhere in this thesis) serve to demonstrate that criminal groups are highly involved in laundering large sums of money, gained from their illicit activities, in the real estate sector of the Costa del Sol. It is plausible to assume, therefore, that the high level of construction in this area, which undoubtedly facilitates, and presents several opportunities to carry out, such activity²¹⁹, is a factor that attracts these groups to this region. Certainly, in 2006, Augusto Méndez de Lugo, the president (at the time) of the *Tribunal Superior de Justicia de Andalucía* (TSJA), (Supreme Court of Justice of Andalucía), made a direct correlation between the 'urban boom', money laundering and the establishment of 'mafia organisations' in the Costa del Sol²²⁰. When presenting the annual report of his organisation, Méndez de Lugo was reported as saying that the 'urban boom' has allowed 'massive' construction on the Costa, which has served, in many cases, as an important 'refuge' for laundering money. He continued to say that, in Andalucía, there are 840 kilometres of coast, a great part of which pertain to Málaga, and, under the umbrella of tourism, 'mafia organisations, who have wanted to get a slice of this important economic growth', have established themselves²²¹.

Certainly, tourism also drives the economy of the Costa del Sol²²². Indeed, with regard to tourism, the mild climate²²³, coastal location and good transport

[viviendas-sufre-fuerte_20070417.html](#) and Amanda Salazar, 'Los constructores proyectan la mitad de viviendas que hace un año', *SNP.es*, <http://www.dianiosur.es/20080705/malaga/constructores-proyectan-mitad-viviendas-20080705.html> [both accessed 01/09/08]. Interestingly, however, the data shows that, in the first half of 2008, resorts such as Marbella and Torremolinos again experienced a growth in the building of new properties.

²¹⁷ This figure reaches 85 per cent in the town of Mijas and 82 per cent in Marbella. The average for Andalucía was 22.2 per cent. The Provincial Environmental Committee estimates that one million new residences will be constructed in Málaga in the next decade. See Greenpeace, 'Destruction at all Co(a)sts: Greenpeace report about the Spanish coast situation' (English summary), Madrid and Barcelona, Greenpeace Madrid and Greenpeace Barcelona, June 2007, pp. 14-15,

<http://www.greenpeace.org/raw/content/espana/reports/resumen-destruccion-a-toda-cos-2.pdf> [accessed 07/08/08].

²¹⁸ Interviews P2, J7 and P14.

²¹⁹ Interviews P7, P10 and P11.

²²⁰ See, for example, M. J. Cruzado, 'El TSJA insta a combatir el crimen organizado en la Costa', *SNP.es*, 21/04/06, <http://www.dianiosur.es/pg060421/prensa/noticias/Malaga/200604/21/SUR-MAL-018.html> [accessed 10/10/08]. A similar point was also made during interview J6.

²²¹ See, Cruzado, *op. cit.* (my translation).

²²² See, for example, OECD, Centre for Entrepreneurship, SMEs and Local Development, *Globalisation, SMEs and Tourism Development. Case Study: The Role of Andalusian SMEs in Tourism Global Value Chains*, OECD, 19/02/08, pp. 2-3, <http://www.oecd.org/dataoecd/44/57/40122424.pdf> [accessed 05/07/08].

²²³ The region enjoys a very pleasant climate almost throughout the whole year. The average annual temperature is approximately 18° centigrade (registering, at the highest, approximately 30° centigrade in

communications²²⁴, along with other leisure attractions such as the numerous golf courses, make the Costa del Sol one of Spain's most popular tourist destinations (the number of tourists arriving just in the province of Málaga in 2007, for example, was approximately 9,518,000²²⁵, and almost 26 million tourists visited the wider area of Andalucía in the same year²²⁶). As noted above, the very same reasons, and the glamorous 'play boy' lifestyle that the Costa del Sol offers²²⁷ (for example, as one interview source claimed, 'if you have a flat in Marbella, you have social stature'²²⁸), further explains why many people choose to emigrate to the region and also why the area is a popular choice for foreigners to have holiday homes and second residences. Indeed, the recent construction 'boom' along this part of the Spanish coast offers interested purchasers a wide choice of properties in which to invest. Referring to studies carried out by specialised firms, the Costa del Sol Tourist Board & Convention Bureau states that almost 90 per cent of the real estate developments built along the coast are monopolised by foreign buyers, one third being British and the

August and, at the lowest, approximately 12° centigrade in January), and it is estimated that there is an average of 320 days of sunshine and less than an average of 500 mm rainfall on the coast each year. See Costa del Sol Patronato de Turismo & Convention Bureau, *Press Dossier 2008*, Málaga, Patronato Provincial de Turismo de la Costa del Sol, 2008, p. 3, accessed through

<http://professionals.visitcostadelsol.com/bd/ficheros.php?modulo=3> [accessed 26/06/08]; Costa del Sol

Tourist Board and Convention Bureau, 'Population, size and climate',

<http://www.visitcostadelsol.com/content/view/345/149/>, [accessed 26/06/08].

²²⁴ The Costa del Sol is well served by the *Autovía del Mediterráneo*, the main dual carriageway that runs the length of the coast from Nerja to Manilva, and the toll road AP-7. Railway lines also run from Málaga city to Fuengirola on the western Costa del Sol, and to Álora in the Guadalhorce Valley. Since December 2007, a new AVE (*Alta Velocidad Española*) high-speed railway line has connected Madrid with Málaga and, thus, the Costa del Sol. National and, predominantly, international visitors to the Costa del Sol also arrive by way of Málaga's Pablo Ruíz Picasso Airport, which is currently undergoing development in order to almost double its capacity for passenger traffic. Four shipping companies also operate out of Málaga, linking the city with ports in northern Morocco. Additionally, the cruise sector is buoyant, with numerous cruise ships calling at Málaga's port. See, for example, Costa del Sol Tourist Board and Convention Bureau, 'Population, size and climate', *op. cit.*; Costa del Sol Tourist Board and Convention Bureau, 'Location and accesses', <http://www.visitcostadelsol.com/content/view/343/115/1/0/>, [accessed 26/06/08]; Costa del Sol Patronato de Turismo & Convention Bureau, *op. cit.*, p. 23.

²²⁵ Data gathered by the Costa del Sol Tourist Board & Convention Bureau for the studies of the Málaga Provincial Delegation's Planning and Development Society (SOPDE). See Costa del Sol Patronato de Turismo & Convention Bureau, *op. cit.*, p. 9 and also the various reports by SOPDE at http://www.sopde.es/estudios_informes/publicaciones/home.asp?tema=1.

²²⁶ See Instituto de Estadística de Andalucía (Consejería de Economía y Hacienda, Junta de Andalucía), 'Datos al día. Información Estadística de Andalucía. Encuesta de Coyuntura Turística de Andalucía. Primer Trimestre 2007. Datos provisionales', Sevilla [no date],

<http://www.juntadeandalucia.es/ica/turismo/infoica/turi0107/turi0107.htm>; Instituto de Estadística de Andalucía (Consejería de Economía y Hacienda, Junta de Andalucía), 'Datos al día. Información Estadística de Andalucía. Encuesta de Coyuntura Turística de Andalucía. Segundo Trimestre 2007. Datos provisionales', Sevilla [no date], <http://www.juntadeandalucia.es/ica/turismo/infoica/turi0207/turi0207.htm>; Instituto de Estadística de Andalucía (Consejería de Economía y Hacienda, Junta de Andalucía), 'Datos al día. Información Estadística de Andalucía. Encuesta de Coyuntura Turística de Andalucía. Tercer Trimestre 2007. Datos provisionales', Sevilla [no date],

<http://www.juntadeandalucia.es/ica/turismo/infoica/turi0307/turi0307.htm>; Instituto de Estadística de Andalucía (Consejería de Economía y Hacienda, Junta de Andalucía), 'Datos al día. Información Estadística de Andalucía. Encuesta de Coyuntura Turística de Andalucía. Cuarto Trimestre 2007. Datos provisionales', Sevilla [no date], <http://www.juntadeandalucia.es/ica/turismo/infoica/turi0407/turi0407.htm> [all accessed 05/07/08].

²²⁷ Interviews M1, C1, C2, P4 and J2.

²²⁸ Interview P4.

rest from other European nations, as well as Arab investors²²⁹. The 300,000 or so foreigners, who have second or holiday homes in the region, swell the official population statistics, with the result that the Málaga province should, more accurately, be ranked first, in terms of the total population, of the provinces of Andalucía²³⁰. Indeed, it is commonly accepted that the real population figures for this region are notably higher than those stated in the census data²³¹. Residential tourism²³² is most dominant on the (relatively lesser developed) eastern Costa del Sol, whereas the western region (encompassing the renowned holiday resorts of Torremolinos, Benalmádena, Fuengirola, Marbella and Estepona), overwhelmingly, features a large hotel infrastructure²³³. Indeed, in terms of size and quality of services offered, the Costa del Sol provides one of the most significant hotel contributions in Spain²³⁴. Such factors therefore mean that, at all times of the year, the Costa del Sol is visited, and populated by, a whole host of foreign nationals. Indeed, as one interview source estimated, at certain times, 'there are 300,000 to 400,000 Brits' in the region alone²³⁵. As has been discussed previously, and which is also emphasised by the interview and questionnaire sources, this situation provides an anonymous environment where the many foreign criminals active in the region can hide, or 'get lost in'²³⁶ and, as tourism is the region's main source of income, the authorities, it is claimed, do not like to interfere in this²³⁷. Such a high number of foreigners, and the expatriate communities that they create, also appear to pose further problems for the police. For example, one

²²⁹ See Costa del Sol Patronato de Turismo & Convention Bureau, *op. cit.*, p. 4.

²³⁰ See *ibid.*, p. 4. Spain's INE gives a figure of 219,955 foreigners registered in the Municipal Register for the province of Málaga in 2007. See INE, 'Población extranjera por sexo, comunidades y provincias y nacionalidad', *op. cit.*.

²³¹ See, for example, Asociación MADECA, Mancomunidad Costa del Sol Occidental and Area de Juventud, Deportes y Formación de la Diputación Provincial de Málaga, *op. cit.*, pp. 21-23.

²³² 'Residential tourism' can be defined as 'development housing of touristic use'. See OECD, Centre for Entrepreneurship, SMEs and Local Development, *op. cit.*, p. 9, fn 2.

²³³ See Costa del Sol Patronato de Turismo & Convention Bureau, *op. cit.*, p. 4.

²³⁴ For example, almost all hotels in the region are above the three star rating and Málaga is the second province in Spain in terms of the number of five star hotels, representing 75 per cent of the total in Andalucía. Establishments also offer a variety of services to their guests, including swimming pools, sauna and massage services, discotheques, games rooms, tennis and squash courts, golfing facilities, and so on. See Costa del Sol Patronato de Turismo & Convention Bureau, *op. cit.*, p. 5.

²³⁵ Interview P2. According to INE, the actual number of persons from the United Kingdom registered in the Municipal Register in 2007 was 56,898 for Málaga province and 88,446 for Andalucía. See INE, 'Población extranjera por sexo, comunidades y provincias y nacionalidad', *op. cit.*. However, it is commonly argued that the official statistics do not usually present an accurate reflection of the true number of foreign residents due to the fact that many foreigners, for various reasons, do not formally register their residence in Spain. See, for example, Karen O'Reilly, *The British on the Costa del Sol: Transnational Identities and Local Communities*, London and New York, Routledge, 2000.

²³⁶ Interviews J1, P2, M1, P4, J3, J4, P10, J7, J8 and Questionnaire QC. See also Díez Ripollés and Gómez-Céspedes, *op. cit.*, p. 23 and 'IU denuncia que más de 120 grupos de la mafia internacional operan en la Costa del Sol', *abcde Sevilla.es*, 05/01/06, http://www.abcde Sevilla.es/hemeroteca/historico-05-01-2006/sevilla/Andalucia/iu-denuncia-que-mas-de-120-grupos-de-la-mafia-internacional-operan-en-la-costa-del-sol_813462096368.html [accessed 10/10/08], quoting Antonio Romero, ex-member of the parliament of Andalucía for political party IU. It seems that the 'anonymity' of the Costa del Sol is a factor that attracts non-criminal migrants to the region too. See, O'Reilly, *op. cit.*, particularly p. 27.

²³⁷ Interview P2.

interview source claimed that it is difficult for Spanish police to enter British or German bars because they are immediately noticed²³⁸. Clearly, these factors go some way in explaining why the Costa del Sol (and, undoubtedly, other tourist regions along the Mediterranean coast) is an attractive operational base for criminals engaged in illicit enterprise and, in support of this argument, a brief look at some statistics does show that foreigners have, indeed, been heavily involved in, for example, the many drug trafficking offences undertaken in this region in recent years. For example, between 1999 and 2004, Andalucía was the autonomous community with the highest number of foreigners arrested for drug trafficking-related offences²³⁹.

To some extent, tourism may also facilitate illicit enterprise in other parts of Spain. For example, as noted above, tourism is also important, and growing, in the Madrid region. Madrid's efficient transport facilities, and a substantial and expanding hotel sector²⁴⁰, allow tourists to very easily visit and stay in the area. Indeed, according to Observatorio Económico, almost seven million tourists visited the city of Madrid in 2006²⁴¹ and it has been reported that some nine million national and foreign tourists visited the region, as a whole, in 2007²⁴². For one of the interview respondents, then, tourism was seen to be a facilitating factor of illicit enterprise in Madrid, not only for the fact that it provides criminals with more people to steal from, and more customers for their drugs and prostitutes²⁴³, but also for the beneficial environment²⁴⁴ that it generally offers, especially to foreign criminals. Indeed, as in the Costa del Sol, it would appear that both tourism and immigration are seen as facilitating illicit enterprise in this region because these factors provide a degree of anonymity or 'camouflage'²⁴⁴ to the many (presumably foreign) criminals that are active there. One of the questionnaire respondents, for example, made the point that immigrants (and presumably also tourists) in Madrid do not stand out, because many people who live in Madrid, even the Spaniards, are from other places. The respondent stated: '[...] *todos lo que vivimos en Madrid no somos de Madrid*' ('[...] all of us who live in Madrid are not from Madrid')²⁴⁵. Certainly, as we have seen, these factors may prove to be advantageous to foreign criminal groups, and the evidence from the interview sources

²³⁸ Interview P2. See also Tremlett, *op. cit.*, quoting police Commissar Valentín Bahut.

²³⁹ See Elisa García España and Fátima Pérez Jiménez, *Seguridad Ciudadana y Actividades Policiales*, Informe del Observatorio de la Delincuencia en Andalucía 2005, Málaga, Instituto Andaluz Interuniversitario de Criminología and Fundación El Monte, 2005, pp. 147-148.

²⁴⁰ In May 2007, for example, the city of Madrid had more than 68,000 beds in over 830 establishments (61 per cent of these beds are in 4 or 5 star hotels). See Observatorio Económico, *op. cit.*, p. 12, citing the National Statistic Institute's *Hotel Occupation Survey*, May 2007.

²⁴¹ See *ibid.*, p. 11.

²⁴² See Alejandro López, '200.000 personas viven del turismo en la región', *aDn (Madrid)*, 17/07/08, p. 4.

²⁴³ Questionnaire QD.

²⁴⁴ Interview J2.

²⁴⁵ Questionnaire QD (my translation). A similar point is also raised in Lola Galán, 'Madrid, la fuerza del caos', *El País: Domingo*, 16/01/05, p. 3.

discussed above, as well as statistical data, does show that foreigners have been involved in offences related to illicit enterprise in Madrid in recent years. For example, between 1999 and 2004, the autonomous community of Madrid followed Andalucía in terms of having the highest number of foreigners arrested for drug trafficking-related offences²⁴⁶.

Do these factors fully explain illicit enterprise in Spain?

As we have seen above, factors relating to the location and geography of Spain, the presence of immigrant communities and the nature of Spain's economy and industry undoubtedly facilitate illicit enterprise in the country to some degree because, by their very nature, criminal groups will endeavour to exploit any environment that will further the pursuit of their activities and interests. These factors may also help to reduce the risks involved in illicit enterprise and they may give some groups a competitive advantage. When searching for the facilitators of illicit enterprise in Spain, then, these factors cannot be dismissed as irrelevant, as initially thought. However, although these explanations might provide a starting point for our understanding, are they (even when combined together) enough to fully explain illicit enterprise in Spain?

A brief consideration of some simple points may lead us to question the total usefulness of the explanations given above. For example, although it can certainly be argued that no other European country has experienced such a rapid rise in immigration as Spain in recent years and that the country stands as the second most popular tourist destination (as discussed above), it is also the case that Spain is not unique in Europe in having a large number of tourists or immigrant communities. Indeed, Germany, the UK, Italy and France also have large immigrant populations²⁴⁷ and, in some years, other EU countries have received more immigrants than Spain²⁴⁸. Additionally, of course, other European countries also have extensive coastlines, numerous airports and borders with other states.

Furthermore, tourism and immigration are not factors that can be used to explain all incidences or examples of illicit enterprise in Spain, just as they are not factors that can be used to explain illicit enterprise in all regions of Spain. The view of one of the professionals interviewed during the course of this research, for example, was that tourism, in terms of the anonymity that it provides to foreign criminals, is a facilitating factor that is

²⁴⁶ See García España and Pérez Jiménez, *op. cit.*, pp. 147-148.

²⁴⁷ See, for example, Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008, op.cit.*, pp. 18-19 and Giampaolo Lanzieri/Eurostat, *op. cit.*

²⁴⁸ See, for example, Eurostat, *Non-national Populations in the EU Member States*, Luxembourg, Office for Official Publications of the European Communities, 2006, http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-NK-06-008/EN/KS-NK-06-008-EN.PDF [accessed 18/03/07].

relevant only to the coastal areas of Spain²⁴⁹ and tourism certainly cannot be used to explain illicit enterprise in Galicia. Compared with the Costa del Sol and other regions of Spain, for example, there is very little tourism in Galicia. Despite the coastal location of some of its provinces, the Atlantic climate²⁵⁰ and the nature of its landscape mean that Galicia does not conform to the typical image of Spain that we often see featured in holiday brochures.

As one of the interview sources said:

In Galicia [...] it rains a lot. The water is cold. The climate is bad. The beaches are not that good.²⁵¹

Unquestionably, the famous *O Camiño de Santiago* (Way of Saint James)²⁵² has always attracted a number of visitors to the region and, in more recent years, there have also been attempts to advertise Galicia as a tourist destination. Such attempts tend to play on the fact that Galicia is 'different' from the popular 'sun and sea' holiday resorts of Spain²⁵³ and Galicia is marketed as being part of the unspoilt, un-commercialised, 'Green Spain'²⁵⁴. 'Rural Tourism', festivals, National Parks, health resorts and historical centres are especially promoted²⁵⁵. As a result, there has been a significant increase in the number of tourists (especially Spanish tourists) visiting Galicia in the past few years²⁵⁶. Nevertheless, the number of foreign tourists that visit the region is still small when compared with the total numbers who visit Spain generally²⁵⁷. Therefore, whereas tourism may help us to explain criminal activity in some other regions of Spain, particularly (as is often claimed) because it provides an anonymous environment for foreign criminals, tourism is not a factor that can

²⁴⁹ Interview J1.

²⁵⁰ Galicia has been described as having an 'Atlantic climate': damp and mild, with temperatures ranging from 8° centigrade on the coast to 15° centigrade inland, with an annual average temperature for the whole region of around 13.7° centigrade. See Instituto de Turismo de España – Turespaña, 'Galicia: Atlantic climate', <http://www.spain.info/TourSpain/Destinos/CCAA/MasInfo/0/Climatologia%2012.htm?Language=en> [accessed 16/12/08]; Turgalicia, 'Presentation of Galicia, introduction, geographical situation', http://www.turgalicia.es/Presentacion/europa_i.htm [accessed 16/12/08]. Galicia's weather can be 'unpredictable and unforgiving' (See Tremlett, *op. cit.*, p. 372) and certainly contrasts with that of the Costa del Sol and other Mediterranean regions of Spain.

²⁵¹ Interview P8.

²⁵² This is the popular, and historic, pilgrimage to the cathedral in Santiago de Compostela where, according to tradition, the remains of Saint James The Apostle are buried. For full and interesting accounts of this, see, for example, Tremlett, *op. cit.*, pp. 388-393 and Turgalicia (Dirección Xeral de Turismo), 'Galicia, Atlantic Destination', *op. cit.*

²⁵³ See Gemie, *op. cit.*, pp. 145-148.

²⁵⁴ The regions, and provinces, of Galicia, Asturias, Cantabria, the Basque Country, Navarra and Castilla y León are normally categorised as 'Green Spain'. See, for example, 'Green Spain (Northern Spain)', *galiciaguide.com*, <http://www.galiciaguide.com/Greenspain.html> [accessed 21/01/09].

²⁵⁵ See, for example, Turgalicia (Dirección Xeral de Turismo), 'Galicia, Atlantic Destination', *op. cit.*

²⁵⁶ For example, in the month of August 2000, 357,343 Spanish tourists and 72,870 foreign tourists visited Galicia. During the same month of 2003, these figures had risen to 423,226 Spanish tourists and 88,046 foreign tourists. See Gemie, *op. cit.*, p. 147, quoting 'Encuesta de ocupación en alojamiento turísticos', www.ine.es [consulted 18/07/04]. In 2006, a total of 5,303,840 tourists visited Galicia (which included 832,703 foreign tourists) and, in 2007, these figures had risen to 5,726,827 tourists in total (which included 899,112 foreign tourists). See Turgalicia (Dirección Xeral de Turismo), 'Galicia, Atlantic Destination', *op. cit.*

²⁵⁷ For example, the 88,046 foreign tourists who visited Galicia in August 2003 represented only 2.6 per cent of the total number of foreign tourists who visited Spain in that month. See Gemie, *op. cit.*, p. 147.

help us to understand illicit enterprise in Galicia²⁵⁸. The fact that there is little foreign tourism in Galicia may, perhaps, explain why there are fewer foreign criminal groups active in the region than in other areas of Spain, for example – as one of the interview sources said: ‘foreigners can’t hide’ in Galicia²⁵⁹ – but this factor does not, in any way, otherwise explain the extensive criminal activity undertaken in this region.

Additionally, only the transnational (that is, the foreign) criminal groups in Spain will gain from any possible benefits brought by immigrant communities and ethnic enclaves in Spain. Immigration does not explain indigenous criminal activity in Spain (and, as we are aware, some indigenous groups, such as the clans in Galicia, are long established) and some statistical data indicates that it is, in fact, native Spanish criminals that are participating most predominantly in the activities associated with illicit enterprise in the country. For example, according to the 2005 Spanish police report, 4,026 Spaniards were found to be participating in ‘organised crime’ groups in Spain in 2005²⁶⁰. Indeed, by some margin, Spaniards topped the statistics in this respect: as noted earlier in this chapter, Romania and Morocco followed Spain in terms of the country of origin of criminals found to be participating in ‘organised crime’ groups in Spain in that year, but with much lower figures of 889 and 767 respectively²⁶¹. Furthermore, in 2006, 482 ‘organised crime’ groups were detected in Spain, and 5,446 (or 47.5 out of 100) individuals found to be members of these groups were Spaniards²⁶². Spaniards were present in 80 out of 100 ‘organised crime’ groups that year and represented the main nationality in 265 of them (that is, in 55 out of 100 groups, Spaniards had a prominent role)²⁶³. Also in 2006, there were 16,766 arrests for drug trafficking crimes and the majority of those arrested were Spanish nationals (by nationality, 10,334 were Spanish; 5,605 were foreigners; and nationality was not indicated in 827 cases)²⁶⁴. Moreover, even the criminal groups that could benefit from the presence of immigrant communities and ethnic enclaves in Spain may not, in practice, actually confine themselves to utilising them. As Morrison argues²⁶⁵, if ‘organised’ criminals are rational actors, they will work with criminals from different ethnic backgrounds, if that association promises to be the more rewarding one. Indeed, as Edwards contends:

²⁵⁸ This point was also raised during interview J1.

²⁵⁹ Interview P15.

²⁶⁰ *España. Delincuencia Organizada / 2005, op. cit.*

²⁶¹ *Ibid.*

²⁶² See Fiscalía General del Estado, *Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado, Excmo. Sr. D. Cándido Conde-Pumpido Tourón (2007) (Capítulo III, Volumen I)*, Madrid, 2007, p. 698.

http://www.fiscal.es/csblob/V1_CAP3.pdf?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1109248280982&ssbinary=true [accessed 07/09/08].

²⁶³ See *ibid.*

²⁶⁴ See *ibid.*, p. 185.

²⁶⁵ See Shona Morrison, ‘The Dynamics of Illicit Drug Transshipment and Potential Transit Points for Australia’, *Transnational Organized Crime*, Vol. 3, No. 1, 1997, pp. 6-7.

[...] networks premised on ethnicity limit the scope for expansion and diversification into multiple sectors for the production, exchange and consumption of illicit goods and services.²⁶⁶

Finally, and returning to Friman's argument regarding geographical location²⁶⁷: although he acknowledges that geography can play a part in a state becoming a transit point for illegal goods, he also argues that other factors may decrease the importance of geographical location (for example, economic linkages, or even immigrant communities) and that a country's openness to transit hinges on the likelihood of goods successfully passing through it. This, he argues, depends on one of two things: either successful passage will happen by choice (the authorities allow it or participate in it), or the state is too weak to stop it happening (for example, there is limited territorial control, problems with corruption, weak legal provisions, and so on)²⁶⁸, which returns us to the discussion relating the development of the hypothesis.

The development of the hypothesis

From the outset of the research process and with reservations that the explanations discussed above were, by themselves, simply too superficial, some alternative or extra explanations were searched for in the wider organised crime literature that specifically focuses on why 'organised crime' occurs in certain states. Within this, convincing explanations relating to state weaknesses appear quite regularly. Indeed, if we review the existing literature and research in the field of 'organised crime', and look at the reasons given for the existence (or upsurge) of 'organised crime' in a state, we see that 'organised crime' typically takes root and flourishes where the state is weak, absent, dysfunctional or ineffective: consequent power and functional vacuums left by the state or its institutions are thus filled by criminal groups.

In relation to Sicily and Italy, for example, several works incorporate what has become a standard explanation to account for the origin and rise of the Sicilian Mafia, which ultimately blames the weakness or absence of the Italian state²⁶⁹. In essence, it is

²⁶⁶ Adam Edwards, 'Transnational Organised Crime' in James Sheptycki and Ali Wardak (eds.), *Transnational and Comparative Criminology*, London, Glasshouse Press, 2005, pp. 220-221.

²⁶⁷ Friman, *op. cit.*

²⁶⁸ *Ibid.*, pp. 71-74.

²⁶⁹ See, for example, Anton Blok, *The Mafia of a Sicilian Village, 1860-1960: A Study of Violent Peasant Entrepreneurs*, Prospect Heights, Illinois, Waveland Press Inc., 1988 (first published 1974); Henner Hess, *Mafia & Mafiosi: Origin, Power and Myth*, London, C. Hurst & Co. (Publishers) Ltd., 1998 and also Henner Hess, 'The Traditional Sicilian Mafia: Organized Crime and Repressive Crime' in Robert J. Kelly (ed.), *Organized Crime: A Global Perspective*, Totowa, New Jersey, Rowman and Littlefield Publishers, 1986, pp. 113-133; Joseph L. Albin, *The American Mafia: Genesis of a Legend*, New York, Appleton-Century-Crofts, 1971, pp. 126-134; Howard Abadinsky, *Organized Crime*, 7th edition, Belmont, California, Wadsworth/Thomson Learning, 2003, pp. 147-149; Alison Jamieson, *The Antimafia: Italy's Fight Against Organized Crime*, Basingstoke and London, Macmillan Press Ltd., 2000; Raimondo Catanzaro, 'Violent Social Regulation: Organized Crime in the Italian

generally argued that the end of feudalism in the nineteenth century created an increase in property rights, which the Italian state could not protect because it was too weak, or absent altogether – the state could not assume authority, guarantee public security or provide protection through a legitimate monopoly of the use of force. This created a demand for private protection and the void was filled by proto-*mafiosi*. Once established, the Mafia then took advantage of other opportunities, increased its power, and continued to grow and flourish until, arguably, the Italian state became strong under Fascism. Indeed, if it can be argued that the Sicilian Mafia emerged because the state was weak (or absent), then it follows that when the Italian state became strong, we can envisage a weakening or disappearance of the Mafia and many argue that this was the case²⁷⁰. Certainly, under the instruction of Mussolini, Prefect Cesare Mori succeeded in imprisoning, torturing, killing or driving abroad many *mafiosi*²⁷¹. However, shortly after the demise of Fascism, the Sicilian Mafia re-emerged, arguably stronger than ever, and it continues to prosper in contemporary times. This indicates that there are again certain weaknesses in the Italian state, which allow the Mafia to flourish. Writing in the 1970s, Servadio argued:

The mechanisms of the State – the legal structure and the police forces – are still lamentably weak, and invite the contempt of the Sicilian population at large.²⁷²

More than two decades later, Jamieson, in a similar vein, argues that the Sicilian Mafia continues to fill the vacuums left by weak or absent public institutions:

[...] substituting itself for the State in functions such as the maintenance of public order, the use of force, economic regulation and the administration of justice [...].²⁷³

Indeed, she believes that addressing such weaknesses proactively could be the key to defeating the Mafia. She states:

[...] to make the State work is the real challenge that Italy's politicians and administrators face at the end of the twentieth century. It calls for good governance at national and local level; the orderly functioning of schools, hospitals, public services and courtrooms [...]; efficiency, integrity and accountability in

South', *Social & Legal Studies*, Vol. 3, 1994, pp. 267-279; Jane Schneider and Peter Schneider, 'Mafia, Antimafia, and the Question of Sicilian Culture', *Politics & Society*, Vol. 22, No. 2, June 1994, pp. 237-258; Michele Pantaleone, *The Mafia and Politics*, London, Chatto & Windus Ltd., 1966; Gaia Servadio, *Mafioso: A History of the Mafia from its Origins to the Present Day*, London, Secker and Warburg Ltd., 1976; Raimondo Catanzaro, *Men of Respect: A Social History of the Sicilian Mafia*, New York, The Free Press, 1988; Oriana Bandiera, 'Land Reform, the Market for Protection, and the Origins of the Sicilian Mafia: Theory and Evidence', *Journal of Law, Economics & Organization*, Vol. 19, No. 1, 2003, pp. 218-244. See also Diego Gambetta, *The Sicilian Mafia: The Business of Private Protection*, Cambridge, Massachusetts, Harvard University Press, 1993.

²⁷⁰ See, for example, Blok, *op. cit.*, particularly Chapter 7; Abadinsky, *op. cit.*, pp. 149-151; Pantaleone, *op. cit.*, Chapter 4.

²⁷¹ See, for example, Servadio, *op. cit.*, Chapter 5.

²⁷² *Ibid.*, p. 118.

²⁷³ Jamieson, *op. cit.*, p. xxi.

public office-holders and transparency in their activities; freedom of competition, and from harassment, for all forms of legal business enterprise.²⁷⁴

Thus, Italy/Sicily, both during the nineteenth century and today, serves as a prime example of how criminal groups fill the vacuums left by an absent or ineffective state. Moreover, the Italian case can prove to be instructive in understanding other cases in which the shortcomings of the state have also played a role in the development of 'organised crime'. Gambetta, for example, suggests that, if the circumstances that led to the emergence of the Sicilian Mafia in the nineteenth century are the same, a need for protection (and the subsequent emergence of criminal groups as the suppliers of that protection) can happen elsewhere²⁷⁵. Indeed, the literature shows that indigenous 'organised crime' groups in both Russia and Japan emerged, or significantly developed, under strikingly similar conditions to those relevant to the rise of the Mafia in post-feudal Sicily.

In relation to post-Soviet Russia, for example, Gambetta outlines how the number of property owners and the number of transactions involving individuals with property rights increased with the end of socialism (just as they did with the end of feudalism in Sicily). At this time, the fear of being cheated and of losing property also increased, which led to a demand for trust and protection, which was not met by the state but by a plethora of private suppliers²⁷⁶. Other scholars have pursued this line of research. Varese, for example, also argues that the Russia Mafia, as he defines it, 'emerged as a consequence of an imperfect transition to the market'²⁷⁷. The extensive privatisation that took place during the transition meant that there was a significant increase in the number of people owning assets, which produced a demand for protection against, for example, attempts to take those assets away. However, the state in post-Soviet Russia did not emerge as an impartial and credible protector of property rights. Some actors were able to influence state agencies and obtain a privileged distribution of assets and tax concessions, but others' rights were weakly protected²⁷⁸: 'A generalized provision of protection and clearly defined property rights was lacking'²⁷⁹. Distrust for institutions of authority (the police, courts, political

²⁷⁴ *Ibid.*, p. xxii.

²⁷⁵ Gambetta, *op. cit.*, pp. 252-254.

²⁷⁶ See Gambetta, *op. cit.*, pp. 252-254.

²⁷⁷ Federico Varese, *The Russian Mafia: Private Protection in a New Market Economy*, Oxford, Oxford University Press, 2001, p. 17.

²⁷⁸ See *ibid.*, pp. 22-36; Federico Varese, 'The Transition to the Market and Corruption in Post-socialist Russia', *Political Studies*, Vol. XLV, 1997, pp. 579-596; Federico Varese, 'What is the Russian Mafia?', *Low Intensity Conflict & Law Enforcement*, Vol. 5, No. 2, 1996, pp. 132-133.

²⁷⁹ Varese, *The Russian Mafia*, *op. cit.*, p. 36.

institutions, and so on) was rife²⁸⁰ and Russian citizens did not expect fair treatment from government officials, legal institutions and the police²⁸¹. Moreover, Varese's study of the Courts of Arbitration, which have jurisdiction over commercial disputes and property claims, shows that the decisions of these courts could not be enforced and that the law in this area was not 'working'²⁸². The Russian state at this time was simply not a credible or efficient supplier of protection, and as Volkov reminds us:

Where property rights are unclear or the state is incapable of enforcing them, private enforcers are likely to emerge and benefit from the state's weakness.²⁸³

Hence, the demand for protection in post-Soviet Russia was met by alternative sources, by people trained in the use of violence that suddenly found themselves unemployed at the time of the transition, such as redundant servicemen, policemen and sportsmen²⁸⁴. From these sources, various kinds of private protector, or what Volkov calls 'violence-managing agencies'²⁸⁵, emerged and amongst these were the criminal protectors that became known as the 'Russian Mafia'.

As with the case of Sicily then, we can see how 'organised crime' has 'supplanted many of the functions of the state'²⁸⁶; how criminal groups have stepped in to fill the vacuums left by ineffective and dysfunctional state institutions. Williams, however, argues that the inability of the state to provide protection and contract enforcement is only one form of weakness. He states:

As important as the inability of the state to fulfill certain positive functions that are necessary for the development of a flourishing market economy, is its inability to prevent criminal actions from taking place. Whilst the first weakness is reflected in the failure to provide a legal and regulatory framework to facilitate the transition to, and management of, the new economic system, the second is manifest in the weakness in the legal system²⁸⁷.

²⁸⁰ *Ibid.*, pp. 38-39, citing the 1994 *New Russia Barometer* survey, cited in R. Rose, 'Russia as an Hour-Glass Society: A Constitution without Citizens', *East European Constitutional Review*, Vol. 4, No. 3, 1995, p. 38.

²⁸¹ See Varese, *The Russian Mafia*, *op. cit.*, pp. 39-42.

²⁸² See *ibid.*, pp. 42-54 and Varese, 'What is the Russian Mafia?', *op. cit.*, p. 133.

²⁸³ Vadim Volkov, 'Who Is Strong When the State Is Weak? Violent Entrepreneurship in Russia's Emerging Markets' in Mark R. Beissinger and Crawford Young (eds.), *Beyond State Crisis? Postcolonial Africa and Post-Soviet Eurasia in Comparative Perspective*, Washington, DC, Woodrow Wilson Center, 2002, p. 83.

²⁸⁴ See Varese, *The Russian Mafia*, *op. cit.*, pp. 55-59 and Varese, 'What is the Russian Mafia?', *op. cit.*, p. 133.

²⁸⁵ Volkov argues that 'violence-managing agencies' are the main unit of 'violent entrepreneurship', which he defines as a set of organisational solutions and action strategies that enable the conversion of organised violence into money or other market resources on a permanent basis. The main function of 'violence-managing agencies' within post-Soviet Russia is 'enforcement partnership' – the profit-motivated use of actual or potential force, which enables the maintenance of certain institutional conditions necessary for business activities, such as security, contract enforcement, dispute settlement and transaction insurance. See Volkov, *op. cit.*, pp. 83-84 and pp. 86-88.

²⁸⁶ Yuriy A. Voronin, 'The Emerging Criminal State: Economic and Political Aspects of Organized Crime in Russia' in Phil Williams (ed.), *Russian Organized Crime: The New Threat?*, London, Frank Cass Publishers, 1997, p. 60.

²⁸⁷ Phil Williams, 'Introduction: How Serious a Threat is Russian Organized Crime?' in Williams, *op. cit.*, p. 8.

The ineffectiveness of the legal system appears to stem from a number of interrelated factors. Firstly, despite some recognition of the threat caused by contemporary 'organised crime'²⁸⁸ in post-Soviet Russia, it is argued that the legislation and the legal tools to deal with it may still remain inadequate and incomprehensive, especially against the new criminal organisations and criminal practices that have emerged since the transition²⁸⁹. Secondly, various problems pervade the Russian law enforcement organs, such as a lack of equipment, facilities, personnel, experience, money and morale²⁹⁰. Finally, there may also have been, in certain sectors of the security, intelligence and law enforcement services, a lack of will to fight the true core of 'organised crime' and corruption²⁹¹. Thus, the weakness of the legal system means that the state is unable (or unwilling) to address the growing 'organised crime' problem. In sum, then, it can be seen that Russia serves as another case in which the weakness of the state, in certain spheres, has fundamentally contributed to the development, or burgeoning, of 'organised crime'.

State weaknesses also appear to have played a role in the development and growth of the Japanese criminal gangs that we commonly call *yakuza* groups, or what Peter Hill refers to collectively as the 'Japanese Mafia'²⁹². Milhaupt and West²⁹³ believe that Japan shares similarities with Sicily and Russia. They argue:

Post-feudal Japan, [...] like post-feudal Italy and post-Soviet Russia, is characterized by dramatic increases in formal property rights. Similar to these other countries, post-feudal Japan also is characterized by a weakness of complementary enforcement mechanisms. The Japanese transition out of feudalism left a void for private transaction-makers and rights-enforcers that was filled by a hodgepodge of groups, which in Japan included an amalgam of disenfranchised samurai, hoodlums, and poor peasants. This mismatch between property rights and

²⁸⁸ See, for example, Voronin, *op. cit.*, p. 58; Robert J. Kelly, Rufus Schatzberg and Patrick J. Ryan, 'Primitive Capitalist Accumulation: Russia as a Racket' in Patrick J. Ryan and George E. Rush (eds.), *Understanding Organized Crime in Global Perspective: A Reader*, Thousand Oaks, California, Sage Publications, Inc., 1997, p. 182; Varese, 'What is the Russian Mafia?', *op. cit.*, p. 137; Tanya Frisby, 'The Rise of Organised Crime in Russia: Its Roots and Social Significance', *Europe-Asia Studies*, Vol. 50, No. 1, 1998, pp. 39-41.

²⁸⁹ See Williams, 'Introduction: How Serious a Threat is Russian Organized Crime?', *op. cit.*, pp. 8-9; Voronin, *op. cit.*, pp. 57-59; Kelly *et al.*, *op. cit.*, p. 80, citing M. Joutsen, 'Organized Crime in Central and Eastern Europe' in J. S. Albanese (ed.), *Contemporary Issues in Organized Crime*, Monsey, New York, Willow Tree, 1995, pp. 201-211.

²⁹⁰ See Williams, 'Introduction: How Serious a Threat is Russian Organized Crime?', *op. cit.*, p. 9; Voronin, *op. cit.*, p. 58; Frisby, *op. cit.*, pp. 29-30; Kelly *et al.*, *op. cit.*, p. 80, citing M. Joutsen, 'Organized Crime in Central and Eastern Europe' in J. S. Albanese (ed.), *Contemporary Issues in Organized Crime*, Monsey, New York, Willow Tree, 1995, pp. 201-211.

²⁹¹ See, for example, J. Michael Waller and Victor J. Yasmann, 'Russia's Great Criminal Revolution: The Role of the Security Services' in Ryan and Rush, *op. cit.*, pp. 187-200, particularly pp. 198-200.

²⁹² Peter B. E. Hill, *The Japanese Mafia: Yakuza, Law, and the State*, Oxford, Oxford University Press, 2003. Other researchers prefer to use the term *boryokudan* to collectively refer to Japanese organised crime syndicates. For example, see Frank F. Y. Huang and Michael S. Vaughn, 'A Descriptive Analysis of Japanese Organized Crime: The Boryokudan from 1945 to 1988', *International Criminal Justice Review*, Vol. 2, 1992, pp. 19-57.

²⁹³ Curtis J. Milhaupt and Mark D. West, 'The Dark Side of Private Ordering: An Institutional and Empirical Analysis of Organized Crime', *University of Chicago Law Review*, Vol. 67, 2000, pp. 41-99.

enforcement mechanisms leads to organized crime – the dark side of private ordering.²⁹⁴

Milhaupt and West identify the Meiji Period (1868-1911) as being one of the most fertile environments for the development of 'organised crime' in Japan, characterised as it was by a rapid transition from an agrarian, feudal society to a modern, industrialised economy, which caused a boom in property rights. However, they argue, the increases in the number of people owning assets and in the number of economic transactions were not matched by the development of complementary state enforcement mechanisms²⁹⁵.

Hill questions the significance of the Meiji period to the development of *yakuza* groups²⁹⁶. However, by identifying the Tokugawa period in the early nineteenth century as a time when *bakuto* groups flourished²⁹⁷, he nevertheless concurs with the thesis that state inefficiencies were arguably to blame for the development of criminal groups in Japan because, during this time:

[...] the Tokugawa military government became increasingly weak as the growth of a wealthy merchant class supplanted a hereditary landholding aristocracy as the main source of economic power.²⁹⁸

So that:

[...] by the Tenpō period (1830-1844), many areas were effectively unpoliced; gambling groups openly defied the law by wearing swords; the regional officials were unable to take steps against them.²⁹⁹

Moreover, he claims that this example of a simultaneous weakening of formal state controls coupled with a growth of criminal groups is not 'completely at odds with the mechanism we identify as being responsible for the development of the Sicilian and Russian mafias'³⁰⁰.

Another example demonstrating how a weak state contributed to the development of *yakuza* groups is provided by the period following the Second World War. As Hill argues:

The 43-year period between the end of the Second World War and the death of the Shōwa emperor (1989) saw enormous changes in Japan and, in response to the opportunities and challenges that these changes offered, organised crime in Japan developed profoundly, too.³⁰¹

²⁹⁴ *Ibid.*, p. 49.

²⁹⁵ See Milhaupt and West, *op. cit.*, pp. 51-53.

²⁹⁶ Hill, *op. cit.*

²⁹⁷ Huang and Vaughn also claim that *bakuto* groups 'joined other outcasts to form the modern boryokudan' during the Tokugawa period. See Huang and Vaughn, *op. cit.*, p. 22.

²⁹⁸ Hill, *op. cit.*, p. 39.

²⁹⁹ *Ibid.*, citing H. Iwai, *Byōri Shūdan no Kōzō*, Tokyo, Seishin-Shobō, 1963, p. 42.

³⁰⁰ Hill, *op. cit.*, p. 39.

³⁰¹ *Ibid.*, p. 42.

Particularly significant were the Allied occupation years immediately following the end of the Second World War, or the time that Hill has called the 'period of postwar confusion'³⁰². Kaplan and Dubro argue that:

The occupation had, by sweeping away the top layer of control in government and business, left a power vacuum [... into which had] 'sprung a degenerate "boss" system reminiscent of the Capone gangster days'.³⁰³

Moreover, Milhaupt and West claim that the second boom in property rights in Japan occurred during this time, as occupation reformers 'designed a new constitution containing a more extensive list of recognized economic rights [...]'³⁰⁴. Yet, once again, this expansion of property rights was not matched by the development of complementary enforcement mechanisms³⁰⁵.

Furthermore, what was clearly important to the development of *yakuza* groups was the Japanese black market, which evolved very rapidly during this period of economic exhaustion, devastation, rationing, starvation and high unemployment, and over which *yakuza* bosses quickly assumed control. The Japanese police forces were unable to respond and enforce public order because they were too weak: they had been effectively disarmed, disempowered and discredited as a result of reforms imposed by the Supreme Commander of the Allied Powers (SCAP) authority, which had led to decentralisation of the police forces. The police suffered a lack of funding, which stimulated corruption, as well as a lack of trained personnel and equipment, and the decentralised forces were unable to coordinate their operations and share information³⁰⁶. Additionally, sections of the SCAP authority were reluctant to intervene in areas over which they did not have a jurisdictional monopoly, and did not treat policing the underworld as a priority³⁰⁷. Thus, the state was left largely powerless to control the black markets and the flourishing criminal *yakuza* activities. As Hill argues:

[...] this disruption of the police played a major part in ensuring that Japanese society in the immediate postwar era was deficient in sources of public protection. This deficiency was in turn a crucial factor encouraging the development of alternative sources of protection.³⁰⁸

³⁰² See *ibid.*, Chapter 2. Huang and Vaughn, *op. cit.*, similarly call this the 'Confusion Period'. In their discussions of the historical evolution of Japanese organised crime groups, these authors, like Hill, are following the historical periods used by the Japanese Ministry of Justice in its 1989 *White Paper on Crime* (Ministry of Justice, *Hanzai Hakusho*, Tokyo, Ministry of Justice, 1989).

³⁰³ David E. Kaplan and Alec Dubro, *Yakuza: The Explosive Account of Japan's Criminal Underworld*, London, Queen Anne Press, 1987, p. 49, quoting Gordon Walker, *Christian Science Monitor*, November 1947.

³⁰⁴ Milhaupt and West, *op. cit.*, p. 52.

³⁰⁵ See *ibid.*, pp. 52-53.

³⁰⁶ See Hill, *op. cit.*, Chapter 2 and Peter Hill, lecture presented at the European Science Days 2005 Summer School on 'Economics, Extra-Legal Protection and Organised Crime', Steyr, Austria, 09/07/05 – 15/07/05.

³⁰⁷ See Hill, *The Japanese Mafia, op. cit.*, Chapter 2.

³⁰⁸ *Ibid.*, p. 254.

Hence:

This is therefore the period by which we can claim that the transition of the *yakuza* to a mafia [...] became complete.³⁰⁹

The low use of the law and the legal system in Japan is also worth some consideration. Apparently, in comparison with European countries and the United States, there is an extreme reluctance in Japan to make use of formal legal procedures (both in the criminal and civil legal spheres) and the comparative number of legal professionals is 'tiny'³¹⁰. Hill claims that, in 1998, Japan had only one legal professional (judges, prosecutors and lawyers) for every 5,995 head of population, which compared to ratios of 1:1,641 for France; 1:724 for Germany; 1:656 for Great Britain; and 1:285 for the United States³¹¹. This means that Japan's courts have traditionally been congested with a backlog of lawsuits, resulting in a judicial system that is incredibly slow and expensive to use³¹². Milhaupt and West argue that the failure of the state (even currently) to provide an effective enforcement framework in areas such as dispute resolution, crime control and finance is then exacerbated by this shortage of legal (and other) professionals and the sluggish legal system, which further encourages the resort to extra-legal mechanisms of enforcement in Japan³¹³. They cite a 1993 government survey, which found that 12 per cent of the Japanese public believed that Japanese 'organised' criminals were a 'necessary evil' precisely because of the slowness of the legal system in resolving civil conflicts³¹⁴. Whatever the ultimate reason for the low use of the law in Japan³¹⁵, and although the barriers to litigation appear to be reducing in recent years³¹⁶, as Hill states:

[...] it should be apparent that aversion to the use of formal law is of considerable significance to the *yakuza*. [...] the failure of the state to afford a system by which citizens can seek to protect their interests and redress grievances provides a market niche to those who would provide such a system privately.³¹⁷

³⁰⁹ *Ibid.*, p. 44.

³¹⁰ Hill, *The Japanese Mafia, op. cit.*, p. 262. See also Milhaupt and West, *op. cit.*, p. 59, who additionally detail a scarcity of other professionals capable of assisting in the rights-enforcement process, such as accountants, bailiffs and credit-rating agencies.

³¹¹ Hill, *The Japanese Mafia, op. cit.*, p. 262, citing *Yomiuri Shinbun*, 03/08/98. This state of affairs is due, in large part, to the Lawyers Law of 1949, which ensured that only those graduating from the Legal Research and Training Institute (LRTI) could enter the legal profession. Admissions to the LRTI have been limited to approximately 500 trainees a year for most of the postwar period (see Hill, *The Japanese Mafia, op. cit.*, p. 264).

³¹² Hill, *The Japanese Mafia, op. cit.*, p. 264.

³¹³ See Milhaupt and West, *op. cit.*, pp. 53-73.

³¹⁴ *Ibid.*, pp. 71-72, citing "Twelve Percent of Japanese Consider Mobsters a "Necessary Evil"", *Agence France Presse*, 19 April 1993.

³¹⁵ See Hill, *The Japanese Mafia, op. cit.*, Chapter 7, for an account of posited reasons.

³¹⁶ See *ibid.*, Chapter 7.

³¹⁷ *Ibid.*, p. 265.

To summarise then, it seems that the development and flourishing of 'organised crime' in Japan, as elsewhere, has been a response to certain weaknesses or shortcomings of the state in that country.

In so far as it can be argued that the state in Italy, Russia and Japan has proved to be inadequate during periods in which private property rights have expanded and increased, the cases discussed here have provided us with some, quite similar, examples of how the state can be ultimately blamed for the rise, or burgeoning, of 'organised crime'. In this particular respect, however, these cases are not helpful to our analysis because the literature discussed here does not fit the case of Spain exactly – in this regard, it can certainly be argued that Spain and its illicit enterprise cannot be immediately or easily compared to the states discussed above. 'Organised crime' in Spain did not emerge under the same conditions as it did in Italy, Russia and Japan, for example – unlike in those states, 'organised crime' did not develop in order to supply the protection that was lacking from the state at times when private property rights were expanding and increasing. Moreover, the literature discussed above primarily seeks to explain the development of indigenous criminal groups in these countries and, in that respect, cannot easily be applied to Spain where, as we know, a considerable amount of illicit enterprise is undertaken by foreign groups. Although manifestations of 'organised crime' are likely to be particular to each state, the countries discussed above share at least one commonality in that they are all the home of some of the most significant and infamous domestic 'mafias' that exist on a much larger scale and appear more penetrative and dangerous than any domestic group in Spain. Spain, of course, is also a home state to criminal groups – as we have seen, there are some domestic groups in Spain and some of these, such as the Galician clans, are particularly entrenched – but these Spanish groups are different to the indigenous groups in the countries discussed above. Not least, and as discussed in Chapter 1, it can be argued that the indigenous criminal groups in Italy, Russia and Japan constitute those of the 'mafia' or 'power syndicate' type, whereas criminal groups in Spain are motivated by money and profit, engage in illicit enterprise, and are solely involved in activities relating to the supply of illegal goods and services and/or the provision of licit goods through illicit means. Indeed, (although the states discussed above also undoubtedly experience crime of an enterprise type, and play host to transnational criminal groups) the nature of the 'organised crime' affecting Spain is different to that affecting the countries discussed above. Thus, this literature cannot simply be picked off the shelf and applied to Spain, but that is not to say that it cannot be useful. The 'weak state' theories used to explain 'organised crime' in other states may not help us explain exactly why illicit enterprise emerged in the ways and forms that it did in Spain, but it may alert us to the fact that certain weaknesses and

inefficiencies associated with the state could be facilitating it and allowing it to flourish. The literature discussed above, therefore, has provided a stimulus to move on from the common explanations discussed earlier in this chapter and focus on how effectively the state functions in certain spheres.

Furthermore, surely if it can be argued that indigenous groups flourish where their home state is weak or ineffective in some way, then, as some authors argue³¹⁸, it follows that transnational criminal groups will also find weak or ineffective states congenial environments for their activities. As Albin *et al* posit³¹⁹, when individuals involved in 'organised crime' migrate to another country, they naturally take with them their criminal values and techniques, but whether they are successful in effectively instituting their criminal enterprises in the host country ultimately depends on whether the social system of that country is amenable to such development. Moreover, they argue, criminal groups could migrate to another country, as a group, and if their style of criminality is new to that country, then we may be able to speak of these groups as having exported a new form of crime. However, if that form of criminality already exists in the host country, then these groups can hardly be said to have exported it. So, the point is:

In either respect, [...] whether these groups are successful in implementing their criminal operations depends on the social, economic, political, and other conditions of the country into which they migrate.³²⁰

In other words, it is the conditions in the country that are important, and so we need to look at these.

In this respect, the review of the literature in relation to Italy, Russia and Japan could prove insightful because it also highlights vulnerabilities in some of the mechanisms of the state in those countries. As we have seen above, in relation to those states, factors such as a weak legal system, weak police forces, poor governance, corruption, an ineffective judicial system, a lack of resources and a lack of political will were amongst those identified as also contributing to the weakness of the state. Furthermore, theories relating to the weakness of the state have also been proposed to account for the flourishing of 'organised crime' in cases other than these³²¹ (albeit for different reasons to those discussed above), and these kinds of factors can also be found in the literature pertaining to these. For example, in explaining the development of the illegal psychoactive drugs industry in

³¹⁸ See, for example, Williams and Savona, *op. cit.*, pp. 10-11; Alison Jamieson, 'The Transnational Dimension of Italian Organized Crime', *Transnational Organized Crime*, Vol. 1, No. 2, 1995, pp. 154-155.

³¹⁹ Joseph L. Albin, Roy E. Rogers, Victor Shabalin, Valery Kutushev, Vladimir Moiseev and Julie Anderson, 'Russian Organized Crime: Its History, Structure, and Function' in Ryan and Rush, *op. cit.*, pp. 153-174.

³²⁰ *Ibid.*, p. 159.

³²¹ See the review by Phil Williams and Roy Godson, 'Anticipating Organized and Transnational Crime', *Crime, Law & Social Change*, Vol. 37, 2002, pp. 315-322.

Colombia, Thoumi argues that, since the Second World War, there has been an increasing process of regime 'delegitimation' in Colombia, a growing inefficiency of its political and economic institutions and a general weakening of the state, to the extent that '[...] the majority of the population does not accept the current system as legitimate or worthy of respect'³²². As a result of the country's retention of many of its pre-capitalistic characteristics, such as a strong individualism (owing to the isolation of the country's regions from one another) and a political tradition of clientelism³²³, Colombia suffers from extremely high levels of violence, widespread corruption, rent-seeking and predatory behaviour, inefficient government, a paralysed judicial system and the growth of underground economies, which have, in turn:

[...] weakened the government's ability to perform some of its most fundamental functions, such as providing justice and a conflict resolution system, police services, and personal security.³²⁴

Thoumi argues that this situation has allowed the illegal drugs industry to develop, which has then further contributed to the state's decline. Indeed, the weakness of the state in Colombia also means that the government cannot implement anti-drug policies or legislation with any real effect or great success³²⁵. The weakening of the state in Mexico, which accompanied the transition from authoritarianism to democracy, has also been blamed for an increase in 'organised crime' there. During the seven decades of 'political monopoly'³²⁶ by the *Partido Revolucionario Institucional* (PRI) (Institutional Revolutionary Party) ('a "patron-client", authoritarian type of system'³²⁷), 'organised crime' was controlled and managed by the authorities and used as 'a source of funding and illicit enrichment for the political elite and their social control agents'³²⁸. When the PRI became forced to share legislative powers with opposition parties, however, and authoritarianism ended in 1997, a 'power vacuum' ensued, which was epitomised by the erosion of institutional authority, an absence of professional law enforcement, an ineffective system of laws and a lack of confidence in the justice system³²⁹. As a result, the criminality that had previously been held in check became 'rampant'³³⁰. It has also been suggested that state weaknesses can

³²² Francisco E. Thoumi, *Political Economy and Illegal Drugs in Colombia*, Boulder, Colorado and London, Lynne Rienner Publishers, Inc., 1995, p. 2.

³²³ See *ibid.*, Chapter 2.

³²⁴ *Ibid.*, p. 2.

³²⁵ See *ibid.*, Chapters 7 and 10.

³²⁶ Stanley A. Pimental, 'The Nexus of Organized Crime and Politics in Mexico', *Trends in Organized Crime*, Vol. 4, Part 3, 1999, p. 9.

³²⁷ *Ibid.*.

³²⁸ *Ibid.*, p. 14.

³²⁹ See, for example, *ibid.*, pp. 22-25. See also Williams and Godson, *op. cit.*, pp. 316-318.

³³⁰ Pimental, *op. cit.*, p. 23.

account for the emergence of 'community dons' in Jamaica³³¹. Johnson and Soeters, for example, argue that 'Jamaica's dons are considered to be a prime example of "rogue leadership" in the civil sphere'³³² and that:

'Rogue leaders' in civil society emerge where and when the state is too weak or too involved with other priorities to control the monopoly of violence and ensure good governance, safety and public order in everyday life³³³.

Finally, Milhaupt and West comment briefly on the USA, a state that is not normally perceived as weak or inefficient. Nevertheless, they assert that:

Even the U.S. experience with organized crime suggests a linkage between ineffective or ill-advised state structure and organised crime activities³³⁴.

In all of the states discussed above, then, 'organised crime' has emerged, or significantly developed, because a weak or absent state has left a power vacuum. The weaknesses in each case may have arisen in different ways and the power vacuums may have been caused by different factors, but the result in all of these cases is the same: these states are (or have been) weak, dysfunctional or ineffective in some way and this has allowed 'organised crime' to flourish. These kinds of explanations relating to state weaknesses, therefore, are particularly convincing because they explain 'organised crime' in so many cases. They could, therefore, prove insightful in examining the case of Spain. Some pertinent questions thus arise: can this literature, and the theoretical assumptions contained therein, be used as a preliminary stimulus to help us to understand illicit enterprise and criminal activity in Spain? Particularly, do vulnerabilities of the kinds highlighted latterly (inefficient political institutions, corruption, ineffective legal systems, weak law enforcement, poor governance, ineffectual judicial systems, a lack of resources and a lack of political will, and so on) exist in Spain? In sum, does Spain also have weaknesses, inefficiencies or power vacuums that may have allowed illicit enterprise to develop and flourish?

Skaperdas notes that conditions and circumstances which facilitate power vacuums in a country or region include geographical and social distance from the centres of political decision making, the prohibition and distribution of certain goods and services that are in high demand, and major political change such as a transition, regime change or revolution³³⁵. Some examples of these circumstances can be seen in the cases discussed

³³¹ See Hume N. Johnson and Joseph L. Soeters, 'Jamaican Dons, Italian Godfathers and the Chances of a "Reversible Destiny"', *Political Studies*, Vol. 56, No. 1, 2008, pp. 166-167.

³³² *Ibid.*, p. 166.

³³³ *Ibid.*, pp. 166-167.

³³⁴ Milhaupt and West, *op. cit.*, p. 49.

³³⁵ See Stergios Skaperdas, 'The political economy of organized crime: providing protection when the state does not', *Economics of Governance*, Vol. 2, 2001, pp. 173-202; Stergios Skaperdas, lecture presented at the

above: for instance, some areas of Colombia are so geographically distant that they are controlled more by drug traffickers and guerrilla groups than by the government; Colombia is also an example of a power vacuum that is created from the legal prohibition of a commodity in high demand (drugs); and major political change can be seen in Italy following unification, and in Russia during and after its transition to democracy³³⁶.

Some of these circumstances are also relevant in the case of Spain. Indeed, if we consider the historical and political development of Spain and the nature of the Spanish state, we can see that there are some very good reasons why it may suffer vulnerabilities. Spain, too, has relatively recently experienced a transition to democracy. Since the death of Franco in 1975, Spain has moved auspiciously from 36 years of dictatorship to fully consolidated democracy. Indeed, the 'remarkably bloodless'³³⁷ transition to democracy under King Juan Carlos I is seen by some as 'the most striking example of successful democratisation of the last three decades'³³⁸, worthy of praise to the point of being upheld as a paradigm case for the study of subsequent political transitions³³⁹. Yet, some scholars³⁴⁰ highlight that transition processes are inevitably accompanied by a weakening of state structures and thus argue that the transition in states such as Mexico and the former Soviet Union was the trigger that unleashed an upsurge of 'organised crime' in these states. As Skaperdas argues, once the previous political authority has gone, it takes time for new institutions to become established³⁴¹ and, in the meantime, 'organised' criminals have an opportunity to exploit these developing institutions. It may, thus, be of little coincidence that the generalised expansion of illicit enterprise in Spain occurred in the years after the transition³⁴²; a time when Spain was experiencing a period of political and economic turmoil³⁴³. Also, how many legacies of Franco's dictatorship still remain? Some academics

European Science Days 2005 Summer School on 'Economics, Extra-Legal Protection and Organised Crime', Steyr, Austria, 09/07/05 – 15/07/05.

³³⁶ Skaperdas, 'The political economy of organized crime: providing protection when the state does not', *op. cit.*, pp. 180-183.

³³⁷ Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 34.

³³⁸ Omar G. Encarnación, 'Civil Society and the Consolidation of Democracy in Spain', *Political Science Quarterly*, Vol. 116, No. 1, 2001, p. 59.

³³⁹ See, for example, *ibid.*, 55; Josep M. Colomer, 'Transitions by agreement: modeling the Spanish way', *American Political Science Review*, Vol. 85, No. 4, Dec 1991, p. 1283; Harrison and Corkill, *op. cit.*, pp. 1-2.

³⁴⁰ See, for example, Williams and Godson, *op. cit.*, p. 317.

³⁴¹ Skaperdas, 'The political economy of organized crime: providing protection when the state does not', *op. cit.*, p. 182.

³⁴² See, for example, José Luis de la Cuesta, 'Organised Crime Control Policies in Spain: A "Disorganised" Criminal Policy for "Organised" Crime' in Cyrille Fijnaut and Leitzia Paoli (eds.), *Organised Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*, Dordrecht, Springer, 2004, pp. 795-796, citing B. Garzón, 'El tráfico de drogas como instrumento del crimen organizado' in B. Garzón and E. Megías, *Narco*, Valencia, Germania, 1997, p. 48.

³⁴³ See, for example, Fernando León Solís, '23 F – redemption or derailment of Spanish democracy', *International Journal of Iberian Studies*, Vol. 20, No. 3, 2007, p. 208.

note an element of continuity with the previous authoritarian regime³⁴⁴, yet some believe there is a reluctance on the part of Spanish officials to return to the past, or do anything that appears to involve the re-imposition of control over society, which has led to a lack of democratic accountability in some institutions and incidences of corruption³⁴⁵.

Moreover, the transition in Spain brought with it political decentralisation. Spain's Constitution³⁴⁶, approved in 1978, recognised autonomous communities within Spain (albeit somewhat ambiguously³⁴⁷). Today, the country has 17 autonomous communities (administrative divisions) and two autonomous cities (Ceuta and Melilla) and it is 'one of the most decentralised nations in Europe'³⁴⁸, but what effect has the ever-increasing autonomy of the regions had, and could decentralisation create distrust for central government and lead to power vacuums in some areas? It is certainly reasonable to foresee the remoteness of the region of Galicia as one explanation for why some parts of this autonomous community have become smuggling paradises. If this situation has resulted in Galicia receiving little economic, or other, interest from central state authorities (as indeed it will be argued in Chapter 5), then (returning to Skaperdas's arguments discussed above³⁴⁹) a power vacuum may have been created, which has been filled by smuggling and drug trafficking organisations. Factors such as these, then, justify why a focus on the vulnerabilities of the Spanish state (and its behaviours, systems and institutions) may provide us with a deeper understanding as to why illicit enterprise flourishes in Spain.

This chapter has shown that, in attempting to understand why illicit enterprise flourishes in Spain, the factors discussed initially, relating to geography, economic issues, immigration, and so on, cannot be ignored – as we have seen, in some cases, they play a significant role in facilitating this type of criminal activity in Spain. This chapter has also suggested, however, that these factors provide us with only a partial understanding and that other factors must also be considered if we are gain a more comprehensive understanding of why illicit enterprise occurs in the country. In this regard, although not directly applicable to Spain, the literature discussed in the second part of this chapter, relating to Italy, Russia, Japan, Colombia and other states, has served as a stimulus to focus attention towards the nature of the Spanish state and to question how effectively its institutions and

³⁴⁴ See, for example, José M. Magone, *Contemporary Spanish Politics*, 2nd edition, London and New York, Routledge, 2009, p. 435; Colomer, *op. cit.*, 1294. Colomer, for example, argues that, after the dictatorship, there was no breakdown in the armed forces or any purge of the political police.

³⁴⁵ See, for example, Jean Grugel and Tim Rees, *Franco's Spain*, London, Arnold, 1997, pp. 189-190.

³⁴⁶ For further details on the Constitution, see, for example, Elena Merino-Blanco, *Spanish Law and Legal System*, 2nd edition, London, Sweet & Maxwell Limited, 2006, pp. 24-27.

³⁴⁷ See Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, *op. cit.*, p. 47.

³⁴⁸ *Ibid.*, p. 45.

³⁴⁹ Skaperdas, 'The political economy of organized crime: providing protection when the state does not', *op. cit.*, p. 180.

systems work and function. In turn, this has led to the development of the hypothesis proposed by this thesis that other explanations relating to certain weaknesses and vulnerabilities in the political, judicial, legal, and law enforcement spheres, which are open to exploitation by criminal groups, are essential in understanding Spain's particular susceptibility to illicit enterprise and, in order to test this, the following chapters will examine some of the institutions, mechanisms and systems of the Spanish state. These chapters will show how particular vulnerabilities in these are revealed through some incidences of political (and other types of) corruption, some legal and judicial deficiencies, some apparent complexities surrounding law enforcement and policing structures, and a lack of political and public attention given to the problem of illicit enterprise. Further, and in support of the hypothesis developed in this chapter, it will, indeed, be argued that such vulnerabilities serve to further facilitate this form of criminal activity in Spain.

Chapter 4

Corruption in Spain

Corruption scandals, and incidences of corruption more generally, can tell us a lot about the relative strengths/weaknesses and levels of effectiveness/ineffectiveness of certain public bodies and state institutions: most notably, they can reveal a lack of transparency and accountability in these spheres and uncover examples of bureaucratic incapacity. This chapter will discuss the nature and extent of corruption in Spain and it will argue that the presence of corruption there, of the forms and types discussed in this chapter, facilitates illicit enterprise in the country. Essentially, the vulnerabilities inherent in the political, judicial and law enforcement spheres, which are revealed through incidences of corruption, are exploited (directly or indirectly) by criminal groups engaged in this kind of criminal activity.

The definition of corruption (just like 'organised crime') is very much open to debate but it is generally accepted¹ that corruption involves 'the abuse of public office for private gain'². However, as Heywood argues, such a definition may be of 'very little practical utility when it comes to understanding the reality of corruption in any given country'³, because corruption takes a multiplicity of forms which may have different causes and consequences. Thus, in order to understand the 'reality' of corruption in Spain and how this facilitates illicit enterprise, it is useful to identify, and give some examples of, the types of corruption that occur there. As this chapter will show, different types of corruption take place at various levels and locations in Spain but, before discussing the nature of this corruption, it is worth considering its extent and the degree to which Spain is particularly prone to corruption. Is Spain more corrupt than its European neighbours, for example?

The extent of corruption in Spain

According to some international indices, it would, indeed, appear that Spain is a relatively corrupt country in comparison to its neighbours⁴. In 2010, Spain ranked joint

¹ See, for example, Paul M. Heywood, 'Corruption in Contemporary Spain', *PS: Political Science and Politics*, Vol. 40, No. 4, 2007, p. 695.

² Transparency International, 'Policy and Research – Surveys and Indices: Frequently Asked Questions', http://www.transparency.org/policy_research/surveys_indices/cpi/2007/faq#general1 [accessed 30/04/11].

³ Heywood, *op. cit.*, p. 695.

⁴ For a discussion of Spain's position in these indices, see, for example, Fundación Alternativas, *Report on Democracy in Spain 2009: Alliances for a New Spanish Prosperity – Towards a New Global Deal*, Madrid, Fundación Alternativas, 2009 (English version), Chapter 7, <http://www.falternativas.org/la->

thirtieth place in Transparency International's *Corruption Perceptions Index* (CPI), making it one of the more perceived corrupt countries of the EU⁵. Generally, southern European countries tend to rank lower than their northern neighbours in the CPIs but, with a few exceptions, higher than the former communist countries of eastern Europe⁶. Spain's 2010 CPI score of 6.1 is higher than it was in 1995 when Transparency International first released its annual CPI (in 1995, Spain had a score of 4.35⁷). Spain's score reached a low of 4.31 the following year⁸, but then it improved, reaching a high of 7.1 in both 2002⁹ and 2004¹⁰. Over the last few years, however, Spain's score has started to slightly decrease again¹¹. In fact, the CPI scores show that perceptions of corruption have worsened when power has been held by the *Partido Socialista Obrero Español* (PSOE) (Spanish Socialist Workers' Party) compared to when power was held by the right-wing *Partido Popular* (PP) (People's Party) – the low score of 1996 came at end of the period of office of socialist leader Felipe González (1982-1996) and, after having climbed to an all time high during the time in power of the PP under José María Aznar (1996-2004), the scores started to worsen again when the PSOE regained power in 2004. This trend seems to conform to the view that socialist administrations are more prone to corruption than conservative ones¹², and it is true that several notorious scandals came to light during the González era (including those involving the deputy Prime Minister, the former Finance Minister, the Governor of the Bank of Spain and the head of the Civil Guard, amongst others)¹³. However, although

[fundacion/documentos/libros-e-informes/informe-sobre-la-democracia-en-espana-2009-version-en-ingles](#) [accessed 28/04/11].

⁵ With a score of 6.1, Spain shared thirtieth place with Israel. See Transparency International, *Corruption Perceptions Index 2010*, http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results [accessed 30/04/11].

⁶ See the discussion in Heywood, *op. cit.*, p. 696.

⁷ See Transparency International, *Corruption Perceptions Index 1995*, http://www.transparency.org/policy_research/surveys_indices/cpi/previous_cpi [accessed 30/04/11].

⁸ See Transparency International, *Corruption Perceptions Index 1996*, http://www.transparency.org/policy_research/surveys_indices/cpi/previous_cpi [accessed 30/04/11].

⁹ Transparency International, *Corruption Perceptions Index 2002*, http://www.transparency.org/policy_research/surveys_indices/cpi/2002 [accessed 30/04/11].

¹⁰ Transparency International, *Corruption Perceptions Index 2004*, http://www.transparency.org/policy_research/surveys_indices/cpi/2004 [accessed 30/04/11].

¹¹ Although, in 2009, Spain ranked joint thirty-second place (again with Israel and with a score of 6.1) (see Transparency International, *Corruption Perceptions Index 2009*, http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table [accessed 30/04/11]), in 2008, with a score of 6.5, Spain shared twenty-eighth place with Qatar and Saint Vincent and the Grenadines (see Transparency International, *Corruption Perceptions Index 2008*, http://www.transparency.org/index.php/policy_research/surveys_indices/cpi/2008 [accessed 15/01/09]). In 2007, Spain ranked joint twenty-fifth (with Uruguay) with a score of 6.7 and, in 2006, it ranked twenty-third with a score of 6.8. See Transparency International, *Corruption Perceptions Index 2007*, http://www.transparency.org/policy_research/surveys_indices/cpi/2007 and Transparency International, *Corruption Perceptions Index 2006*, http://www.transparency.org/policy_research/surveys_indices/cpi/2006 [both accessed 15/01/09].

¹² See, for example, Heywood, *op. cit.*, p. 696, citing D. Singer, 'The Stench of Corruption: Letter from Europe', *The Nation*, Vol. 2, 1995.

¹³ For details of such corruption scandals, see, for example, Heywood, *op. cit.*, pp. 696-697.

corruption scandals may not have been as frequent or as regular under the Aznar administration as they were under the González administration, several important corruption cases also surfaced during the PP's period of office (allegedly involving, for example, the Foreign Minister, the PP treasury secretary and Aznar's long-time friend, the head of Telefónica)¹⁴, showing that corruption in Spain 'can hardly be seen as distinctly a socialist disease'¹⁵.

So, how do we account for these fluctuations in the CPI ratings, given that corruption has been a fact of life in Spain no matter which political party has been in power? Clearly, part of the answer to that question lies in the fact that the index is based only on *perceptions* of corruption¹⁶ (which may not correspond to actual levels of corruption), and perceptions, of course, may be based on all kinds of experiences and factors including, for example, the visibility of scandals. This may be why Jiménez argues that the fall in Spain's CPI score since 2004 is primarily attributable to the increase in the number of cases of urban planning corruption that have surfaced over the last few years¹⁷ (discussed below), which have been very visible in the press and which may have led to perceptions of corruption increasing. Related to this, the think tank Fundación Alternativas argues that the (higher) scores awarded for the previous period were probably 'over-optimistic' because the corruption cases that are now being unravelled actually originated between six and ten years ago, so that:

[...] there has been an adjustment in the perspective because of the large number of cases which have [recently] come to light. We can say, therefore, that adjustments are being made to an earlier perception based on insufficient knowledge which generated a false view of the phenomenon.¹⁸

Heywood also points to further problems with the CPIs. For example, he argues that the kinds of questions used in the surveys that contribute to the CPI tend to be directed at business executives and focus on bribes (and bribe-takers) rather than other forms of corruption, which may only result in a partial picture of the reality of corruption. Further, he highlights that we do not know what the survey respondents actually understand by the term corruption, underlining that what is seen as corruption by one person may not be by

¹⁴ For details see, for example, *ibid.*, p. 697.

¹⁵ *Ibid.*, p. 697.

¹⁶ See Transparency International, 'Policy and Research – Surveys and Indices: Frequently Asked Questions', *op. cit.*

¹⁷ Fernando Jiménez, 'Building Boom and Political Corruption in Spain', *South European Society and Politics*, Vol. 14, No. 3, 2009, p. 255, citing annual reports by Transparency International's Spanish chapter.

¹⁸ Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, Madrid, Fundación Alternativas, 2010, Chapter 4, <http://www.falternativas.org/la-fundacion/documentos/libros-e-informes/democracy-in-spain-2010-the-erosion-of-confidence-and-well-being-against-citizens-desaffection-english-version> [accessed 28/04/11].

another¹⁹. Additionally, people's perceptions, of course, may simply be based on their own experiences and on what they have read and heard²⁰. Some of these factors may account for the differing views in relation to the extent and nature of corruption in Spain amongst the professionals interviewed during the course of this research who, interestingly, were interviewed during the period when the numerous scandals relating to urban corruption were regularly dominating the headlines. This may (or may not) be why one of the interviewees claimed that, in Spain:

Corruption is enormous [...] it has always been so. It's endemic [...] it always has been [...] it's a way of life.²¹

Yet, many of the other interview sources (from a mix of professions) were very keen to emphasise the opposite: that corruption in the country is not endemic, generalised, widespread or, even, particularly unique to Spain²². The view of these professionals, however, does not seem to conform to that of the majority of Spanish citizens surveyed for a 2008 *Special Eurobarometer* report, which revealed that 83 per cent of the Spaniards surveyed considered corruption to be 'a major problem' in their country²³. So, what is the reality?

Corruption appears to have a long tradition in Spain. As Heywood notes:

[...] Spain's entire political history since the monarchical restoration of 1875 has been marked by corruption in one form or another.²⁴

Certainly, accounts of clientelism and political corruption are well documented in the literature and especially damning examples can be found during the dictatorship of General Miguel Primo de Rivera (1923-1930), the Second Republic (1931-1936), the Franco regime (1939-1975) and, as we have seen above, particularly during the period of office of the PSOE under González (although it is also true that the PP and some other political parties were embroiled in corruption scandals during this time too)²⁵. Since then, accusations of

¹⁹ Heywood, *op. cit.*, pp. 697-698.

²⁰ Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, *op. cit.*, Chapter 4.

²¹ Interview J7.

²² Interviews P6, P8, P9, P10, P13, P16, J6, J8, M2 and F1.

²³ European Commission, *Special Eurobarometer 291: The attitudes of Europeans towards corruption*, Special Eurobarometer 291 / Wave 68.2. – TNS Opinion & Social, pp. 4-5, http://ec.europa.eu/public_opinion/archives/ebs/ebs_291_en.pdf [accessed 30/04/11].

²⁴ Paul Heywood, 'From Dictatorship to Democracy: Changing Forms of Corruption in Spain' in Donatella della Porta and Yves Mény (eds.), *Democracy and Corruption in Europe*, London, Pinter, 1997, p. 68.

²⁵ See, for example, *ibid.*, pp. 65-69 and p. 72; Joseph Harrison and David Corkill, *Spain: A Modern European Economy*, Aldershot, Ashgate Publishing Limited, 2008 (reprint), p. 5; Paul Heywood, 'Continuity and Change: Analysing Political Corruption in Modern Spain' in Walter Little and Eduardo Posada-Carbó (eds.), *Political Corruption in Europe and Latin America*, Basingstoke, Macmillan Press, 1996, pp. 115-118; John Gibbons, *Spanish Politics Today*, Manchester, Manchester University Press, 1999, pp. 81-84 and pp. 122-124; John Hooper, *The New Spaniards*, Revised edition, London, Penguin Books Ltd., 1995, Chapter 5 and pp. 440-441; Christopher J. Ross, *Contemporary Spain: A Handbook*, London, Arnold, 1997, pp. 59-61 and p. 229.

political corruption have continued to touch officials of all political persuasions (and at all levels), and a recent report by Fundación Alternativas claims that, in current times:

There is a good deal of data to indicate that the real levels of corruption are very much higher than the international indices imply.²⁶

Moreover, the report argues that 'corruption in Spain does not appear to be on the decline'²⁷ and, although Spanish corruption may not be 'extensive' (in that it claims that only a minority of individuals appear to be directly implicated), it, nevertheless, 'seems to be highly intensive, involving large sums of money'²⁸. In relation to the amount of police activity related to corruption that has taken place between 2004 and the end of 2009, the *Cuerpo Nacional de Policía* (National Police) has carried out 232 operations involving corruption, and specialised agents from the national and regional units under the command of the General Commission of Judicial Police have arrested 943 suspects and confiscated goods valued at more than 3,000 million euros²⁹. In this respect, Fundación Alternativas argues that:

Possibly, the successes of the courts, Civil Guard, and police, in conjunction with the end of the housing boom, are causing a real decline in corruption at the moment; but this will only become clear in a few years time when corruption cases arise, hopefully, with less frequency. If this is proven not to be the case and corruption becomes a recurrent problem, we will have to say that Spain has entered a consolidating phase of corruption which would be the start of a systematic and not exceptional trait.³⁰

The forms of corruption in Spain

In terms of the type and forms of corruption taking place in Spain, (as noted above) it is corruption relating to land, planning, construction and real estate which appears to have been particularly widespread in Spain in recent years³¹. In addition to the important cases affecting some particular regions, which will be discussed in some detail below, scandals have affected many parts of the Spanish mainland (including, amongst

²⁶ Fundación Alternativas, *Report on Democracy in Spain 2009: Alliances for a New Spanish Prosperity – Towards a New Global Deal*, *op. cit.*, p. 209.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ In 2004, the anti-corruption unit only intervened in 104 cases (thus their investigations more than doubled in five years). The National Police arrested ten suspects in 15 investigations in 2004 and, in 2009 alone, it carried out 252 arrests in 54 separate operations. See Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, *op. cit.*, Chapter 4, citing an Interior Ministry press release issued on 10/12/09.

³⁰ Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, *op. cit.*, Chapter 4.

³¹ The professionals interviewed in interviews P1, P3, P11, J3, J7, J8 and M2 all mentioned corruption of this kind.

other regions, Cataluña³², Toledo³³, Murcia³⁴, Sevilla³⁵ and the Comunidad Valenciana³⁶), as well as the Islas Canarias (Canary Islands)³⁷ and Islas Baleares (Balearic Islands)³⁸. In fact, the number of corruption cases relating to town planning and land regulations in Spain (either reported or under investigation) increased from 2,016 in 2004 to 3,279 in 2005, and to 3,846 in 2006³⁹ and, at various times during the course of this research, it seemed that a new scandal was being exposed almost on a weekly basis. Indeed, irregular practices relating to the reclassification of land and the granting of building permits (and so on) are now seen by many to be the main origin or source of corruption in Spain⁴⁰ and so deserve particular mention.

³² See, for example, Manuel Villoria, 'Country reports: Spain', in Transparency International, *Global Corruption Report 2006*, London and Ann Arbor, MI, Pluto Press in association with Transparency International, 2006, p. 252, http://www.transparency.org/publications/gcr/download_gcr/download_gcr_2006 [accessed 08/10/08]; Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, op. cit., Chapter 4.

³³ See, for example, 'Editorial: Marbella, un pozo de corrupción sin fondo', *El Mundo*, 15/11/06, p. 3; EFE, 'El mapa de la corrupción urbanística', *elpais.com*, 17/06/08, http://www.elpais.com/articulo/espana/mapa/corruptcion/urbanistica/elpepuesp/20080617elpepunac_12/Tes [accessed 29/07/08].

³⁴ See, for example, EFE, op. cit.; Cristina Ordaz and E. Huelin, 'La costa mediterránea, salpicada de casos similares al de Marbella', *aDn2 (Barcelona)*, 05/04/06, p. 9; Tono Calleja, 'Detenido por corrupción urbanística el ex alcalde socialista de Los Alcázares', *El País*, 17/01/08, p. 26; Tono Calleja, 'Dos detenidos en Los Alcázares acumularon 100 millones', *El País*, 18/01/08, p. 19.

³⁵ See, for example, M. J. Albert, 'IU expulsa al alcalde de Camas y pide que dimita por el supuesto soborno', *El País*, 18/09/05, p. 28.

³⁶ See, for example, Ordaz and Huelin, op. cit.; V. Villaplana, 'Los promotores de Catral legalizaban las obras en un parque natural con informes manipulados', *ABC*, 19/10/06, p. 14; Levante-EMV, 'La juez ordena prisión sin fianza para el concejal de San Fulgencio que cobró un soborno de 5.000 euros', *Levante-El Mercantil Valenciano*, 23/10/08, p. 24; Santiago Navarro, 'El concejal de San Fulgencio va a la cárcel por soborno', *El País (Comunidad Valenciana)*, 23/10/08, p. 2.

³⁷ See, for example, Manuel Villoria, 'Country reports: Spain' in Transparency International, *Global Corruption Report 2008: Corruption in the Water Sector*, Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo and Delhi, Cambridge University Press, 2008, p. 273, http://www.transparency.org/publications/gcr/gcr_2008 [accessed 08/10/08]; EFE, op. cit.

³⁸ See, for example, Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, op. cit., Chapter 4; Villoria, 'Country reports: Spain' in Transparency International, *Global Corruption Report 2008: Corruption in the Water Sector*, op. cit., p. 274; EFE, op. cit.; Agencias, 'Cinco detenidos por corrupción urbanística en Andratx', *Málaga Hoy*, 21/11/06, p. 40; Biel Mesquida, 'Mallorca, con estrés de corrupción', *El Periódico de Catalunya*, 10/12/06, p. 7; Andreu Manresa, 'El ex alcalde de Andratx sale de prisión tras pagar la fianza', *El País*, 14/12/06, p. 22; Andreu Manresa, 'El fiscal pide cárcel para el portavoz de Unió Mallorquina, socio clave del PSOE', *El País*, 23/10/08, p. 14.

³⁹ Villoria, 'Country reports: Spain' in Transparency International, *Global Corruption Report 2008: Corruption in the Water Sector*, op. cit., p. 272, quoting Memoria de la Fiscalía General del Estado, 2004, 2005 and 2006, www.fiscales.es. For full details, and a chronological list, of the very numerous cases of alleged urban corruption and irregularities in this sphere reported between 15/02/00 and 15/02/07, see Fundación Alternativas, *Urbanismo y democracia. Mapa de presuntas irregularidades y actos de corrupción urbanística 2000-2007*, Vol. II, Madrid, Fundación Alternativas, [no date], <http://www.falternativas.org/la-fundacion/documentos/libros-e-informes/informe-urbanismo-y-democracia-mapa-presuntas-irregularidades-y-actos-corrupcion-urbanistica-2000-2007-vol-ii> [accessed 12/08/08].

⁴⁰ See, for example, William Chislett, *Spain. Going Places. Economic, Political and Social Progress, 1975-2008*, Spain, Telefónica, S.A., January 2008, p. 85, accessed through http://www.realinstitutoelcano.org/materiales/Spain_Going%20Places%20Chislett.pdf [accessed 09/04/08]; Giles Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, London, Faber and Faber Limited, 2006, pp. 132-133; Izquierda Unida-Los Verdes-Convocatoria por Andalucía (IU-LV-CA), *Aproximación al Crimen Organizado y la Actividad Mafiosa en la Costa del Sol*, II Informe: El Crimen Organizado en la Costa del Sol, Observatorio del Crimen Organizado de IU-LV-CA y Oficina de Comunicación de IU-LA-

Undoubtedly, it is the Costa del Sol region that has witnessed the most spectacular examples of urban corruption in the whole of Spain in recent years: as one interview source stated, the building sector really is the 'weak spot' in this region as far as corruption is concerned⁴¹. The most sensational of example of urban corruption in the Costa del Sol began to unfold in Marbella in the spring of 2006 with *Operación Malaya*. During the three phases of this operation (in March, July and November 2006), police arrested almost 100 people⁴², including the town planning advisor (Juan Antonio Roca), a former mayor of Marbella (Julián Muñoz), the mayor of Marbella at the time (Marisol Yagüe), her deputy mayor, the second deputy mayor (who became acting mayor after the arrests of the mayor and first deputy mayor), the former chief of Marbella's police, numerous former town councillors (from various political parties), court officials, bank employees and construction entrepreneurs (although many of those initially imprisoned after arrest were freed after paying large bail deposits). Police also seized or embargoed more than 2.4 billion euros in property, along with helicopters, thoroughbred horses, fighting bulls, luxury cars, works of art and antique guns. The investigations centred around alleged money laundering offences, property development offences (such as granting permission to build on land protected from development), the acceptance of bribes, the manipulation of public tenders, and so on. The outcome of the investigations was that Marbella's town council was dissolved (an unprecedented move since Spain's transition to democracy) and the municipality was governed by administrators, appointed by a regional authority, until the local elections of May 2007, when the PP took over the municipal governance of Marbella⁴³.

Operación Malaya uncovered a pattern of corruption, at local government level, on a truly shocking and magnificent scale. Undoubtedly, it has been one of the worst cases of

CA, Boletín no. 2, Febrero de 2008, p. 7,

<http://iumalaga2008.org/files/II%20Informe%20Crimen%20Organizado1.pdf> [accessed 06/10/08].

⁴¹ Interview J1.

⁴² Prosecutions have been initiated against 86 people. See F. J. Pérez and J. Viúdez, 'Guía de los juicios más esperados de la Costa', *elpais.com*, 05/10/08,

http://www.elpais.com/articulo/andalucia/Guia/juicios/esperados/Costa/elpepiespand/20081005elpand_2/Tes [accessed 08/10/08].

⁴³ For further details about this operation, see, for example, *ibid.*; Luis Gómez and Diego Narváez, 'El valor de lo incautado supera los 2.400 millones de euros', *elpais.com*, 31/03/06, http://www.elpais.com/articulo/espana/valor/incautado/supera/2400/millones/euros/elpepiesp/20060331elpinac_11/Tes [accessed 28/07/08]; Rafael Turnes, 'El Gobierno disolverá el viernes el Ayuntamiento de Marbella', *aDn2 (Barcelona)*, 04/04/06, p. 9; J. Martín-Arroyo and D. Narváez, 'El juez asesta otro golpe a la red de corrupción marbellí con el arresto del ex alcalde Julián Muñoz', *El País*, 20/07/06, p. 17; José Carlos Villaneuva, 'Maite Zaldívar y González de Caldas detenidos por la corrupción marbellí', *El Mundo*, 15/11/06, p. 1 and p. 8; Maña Eugenia Yagüe, "'La madrina' despechada', *El Mundo*, 15/11/06, p. 9; José Luis Díez Ripollés and Alejandra Gómez-Céspedes, 'La corrupción urbanística: Estrategias de análisis', *Revista Española de Investigación Criminológica*, Artículo 5, No. 6, 2008, pp. 17-18 and p. 29, [http://www.criminologia.net/pdf/reic/REICA5N6\(2008\).pdf](http://www.criminologia.net/pdf/reic/REICA5N6(2008).pdf) [accessed 11/08/08]; Chislett, *op. cit.*, p. 35 and, generally, the Spanish press during this time.

urban corruption to hit Spain in recent years. Yet, as a 2006 report in *The Economist* stated: 'The truly disturbing thing about this scandal is that nobody was surprised'⁴⁴. Indeed, Marbella has been associated with rampant corruption since Jesús Gil y Gil, who founded and led the political party *Grupo Independiente Liberal* (GIL) (Independent Liberal Party), became mayor in 1991⁴⁵. Several of the interview sources, for example, recalled how Gil involved the Marbella town hall and the local courts in a web of corruption lasting years⁴⁶, and one even claimed that he 'opened the door to organised crime'⁴⁷. Gil's council is accused of sheltering 'organised' and 'white collar' criminals and drug traffickers by, for example, affording the local police force with the technical resources to block the investigations of the National Police and by removing 'hostile' judges⁴⁸. Particularly, the Gil administration is also associated with the granting of illegal property licences. A newspaper report published in 2003, for example, detailed how between 10,000 and 15,000 properties had been built each year since the arrival of Gil in Marbella and, at the time of that report, more than 10,000 of those were deemed illegal and had been challenged by the Government of Andalucía⁴⁹. Despite this, however, Gil remained popular with the local population, who felt that he protected them and their economic interests⁵⁰, and who appreciated his efforts to clean up Marbella by cracking down on small-time criminals, petty thieves and prostitutes⁵¹. Consequently, he was re-elected twice⁵². When he died in 2004, Gil was being investigated on 15 counts of corruption and links to Italian and Russian *mafiosi* (and he had already served time in prison)⁵³. Since 1991, he had been involved in over 80 court cases and, in one of those, he was disqualified from holding

⁴⁴ 'Costalot', *The Economist*, 08/04/06, p. 48.

⁴⁵ For a particularly interesting and colourful account of Gil and his time in office, see Tremlett, *op. cit.*, pp. 114-116.

⁴⁶ Interviews P1, P2, C2, P4 and J4.

⁴⁷ Interview P4. A similar point was also raised during interview P12.

⁴⁸ See, for example, José Luis Barbería, 'Las mafias echan sus tentáculos en la construcción', *elpais.com*, 03/10/06,

http://www.elpais.com/articulo/espana/mafias/echan/tentaculos/construccion/elpporesp/20061003elpepinac_16/Tes/ [accessed 10/10/08].

⁴⁹ José María Irujo and Pablo Ordaz, 'Marbella, el lado oscuro del paraíso', *El País: Domingo*, 13/07/03, pp. 1-4.

⁵⁰ Interviews P4 and P14.

⁵¹ See, for example, Barbería, *op. cit.*

⁵² 'Costalot', *op. cit.*

⁵³ See Leslie Crawford, 'Hot money pays for boom on Spain's Costa del Crime', *Financial Times*, 23/03/05 and Observatoire Géopolitique des Drogues (OGD), 'Spain: Drug Gateway to Europe', *The World Geopolitics of Drugs 1998/1999 Annual Report: IV. Europe*, April 2000, p. 93, http://www.ogd.org/2000/en/ogd99_4en.pdf [accessed 24/07/02]. Specifically, for example, in 2000, investigators alleged that Calabrian (southern Italian) mafia operations enjoyed Gil's protection. See Library of Congress, *Nations Hospitable to Organized Crime and Terrorism*, Washington D. C., Federal Research Division, Library of Congress, October 2003, p. 141, http://www.loc.gov/rr/frd/pdf-files/Nats_Hospitable.pdf [accessed 09/06/08] and Center for Geopolitical Drug Studies (Association d'Etudes Géopolitiques des Drogues (AEGD)), 'Spain: The New Route of Colombian Traffickers', *Geopolitical Drug Newsletter*, No. XX, July/August 2001, p. 3, <http://www.geodugs.net/mini-lettres/AEGD5GB.pdf> [accessed 24/07/02].

public office for 27 years⁵⁴. Even after his death, Gil's name continued to be heard in Spanish courtrooms. For example, on 10 October 2008, the *Saqueo* case, dubbed by one newspaper as 'the most important trial against urban corruption to be held in Spain in the last 30 years'⁵⁵, finally opened in the National Court (*Audiencia Nacional*). Investigations into this case began in 2002 and Gil, Juan Antonio Roca (who was also arrested as part of *Operación Malaya* and who, by 2008, had over 40 lawsuits pending against him⁵⁶) and another five associates are accused of diverting 36 million euros from the Marbella town hall to private companies between 1991 and 1995 (by way of fictitious municipal companies, false invoicing, and so on)⁵⁷. In respect of Gil, the prosecutor could ask that his heirs are held vicariously and civilly liable for 3,09 million euros⁵⁸.

For Marbella, however, the fall of Jesús Gil did not mark the end of an era in terms of corruption and rot; as one newspaper report claimed: '[...] only some of the actors have changed, because the film is the same'⁵⁹. Indeed, after Gil's judicial disqualification from office, Julián Muñoz became mayor of Marbella, followed subsequently by Marisol Yagüe (both of whom were also arrested as part of the *Operación Malaya* investigations) and, it seems, the absence of law in town planning matters, the collecting of illegal commissions and the rampant enrichment of some local government officials continued to be characteristics of this municipality⁶⁰. Muñoz, himself, has also faced his fair share of judicial trials and investigations. Before the *Operación Malaya* investigations in 2006, he was already involved in some 40 legal proceedings and he has been sentenced numerous times for crimes related to urban planning⁶¹ (the first sentence resulting from his conviction for

⁵⁴ See, for example, 'People – Jesus Gil: Politician & businessman (1933 – 2004)', *andalucia.com*, <http://www.andalucia.com/history/people/jesugil.htm> [accessed 15/11/08].

⁵⁵ Antonio Rubio, 'Arranca en la Audiencia Nacional el juicio por el "saqueo de Marbella"', *elmundo.es*, 10/10/08, <http://www.elmundo.es/elmundo/2008/10/10/espana/1223623509.html> [accessed 14/10/08] (my translation).

⁵⁶ See, for example, Javier Martín-Arroyo, 'Roca empieza a tirar de la manta', *elpais.com*, 04/08/08, http://www.elpais.com/articulo/espana/Roca/empieza/tirar/manta/elpepiesp/20080804elpepinac_5/Tes and Juana Viúdez, 'El juicio del "caso Saqueo" pelagra tras la renuncia del abogado de Roca', *elpais.com*, 19/09/08, http://www.elpais.com/articulo/andalucia/juicio/caso/Saqueo/pelagra/renuncia/abogado/Roca/elpepiespand/20080919elpand_6/Tes [both accessed 14/10/08].

⁵⁷ For details of this case see, for example, Viúdez, *op. cit.*; Rubio, *op. cit.*; Manuel Altozano, 'Roca niega que la Audiencia Nacional pueda juzgarle por el "caso Saqueo"', *elpais.com*, 11/10/08, http://www.elpais.com/articulo/andalucia/Roca/niega/Audiencia/Nacional/pueda/juzgarle/caso/Saqueo/elpepuespand/20081011elpand_8/Tes [accessed 14/10/08] and 'Saqueo corruption case in Marbella, opens in the National Court', *typicallyspanish.com*, 12/10/08, http://www.typicallyspanish.com/news/publish/article_18392.shtml [accessed 14/10/08].

⁵⁸ Rubio, *op. cit.*

⁵⁹ Irujo and Ordaz, *op. cit.*, pp. 2-3 (my translation).

⁶⁰ See, for example, José María Irujo, 'Marbella, un cielo de grúas paradas', *El País*, 16/11/03, pp. 22-23.

⁶¹ See, for example, Diego Narváez, 'De camarero a delfín de Jesús Gil', *El País*, 20/07/06, p. 18; 'Muñoz jailed again', *The Euro Weekly News (Costa del Sol)*, 27/10/05 – 02/11/05, p. 36; 'Julián Muñoz tiene hoy su cuarto juicio', *Qué (Málaga)*, 11/11/05, p. 6 and 'Conceden el tercer grado penitenciario a Marisa Alcalá, imputada en el caso Proinsa', *La Gaceta*, 01/12/06, p. 6.

urban prevarication in the 'Banana Beach' case in 2005⁶²). As of October 2008, Muñoz was serving time in prison for a further three cases related to town planning crimes (for which he was convicted after the *Malaya* case) and was facing new charges, along with ten other ex-councillors, for granting an illegal building licence in 1999 (however, after already serving three years in prison for all of his urban crimes and after establishing a plea deal, this new case is largely 'academic' for Muñoz)⁶³.

For almost twenty years, therefore, Marbella has been associated with sleaze and corruption, particularly in relation to urban planning. As a result, it was estimated in 2005 and 2006 that, out of the 80,000 houses and apartments in Marbella that were included in the latest census, some 30,000 of these (around 37 per cent) had been built illegally and were thus in 'legal limbo', with some property owners currently fearing that their homes might be demolished⁶⁴. Indeed, according to Greenpeace, between 2004 and 2007, the *Tribunal Superior de Justicia de Andalucía* (TSJA) (Supreme Court of Justice of Andalucía) issued over 30 judgments cancelling construction licences handed out by Marbella town council, which affected 2,800 residences, and the Government of Andalucía had called for the destruction of 334 of these⁶⁵. However, control mechanisms such as these are not particularly effective. The sluggishness of the legal system (which will be discussed in the next chapter) means that a judgment annulling an unlawful building licence can be passed several years after it was granted, at a time:

[...] when the evils generated are irreversible: the building has already been completed, the houses have been occupied generally by bona fide buyers, and the demolition of the illegal construction in question may give rise to greater harm than that of not executing the sentence.⁶⁶

Furthermore, Jiménez claims that a large number of town councils have been reluctant to pursue breaches of town planning in their municipalities and, in reality, the demolition of

⁶² Banana Beach is a block of 238 apartments in Marbella. Muñoz and six other councillors were accused of granting illegal planning permission for these buildings. See, for example, Diego Narváez, 'La maldición de Banana Beach', *elpais.com*, 17/11/06, http://www.elpais.com/articulo/andalucia/maldicion/Banana/Beach/elpepiatand/20061117elpand_6/Tes_/accessed 01/09/08 and Fernando J. Pérez, '200 kilómetros de muralla de cemento', *El País*, 01/11/07, pp. 24-25.

⁶³ See, for example, 'El ex regidor del GIL Julián Muñoz logra el tercer grado', *elpais.com*, 13/10/08, http://www.elpais.com/articulo/andalucia/ex/regidor/GIL/Julian/Munoz/logra/tercer/grado/elpepicspanid/20081013elpand_1/Tes_/accessed 13/10/08 and 'New building irregularity case in Marbella', *typicallyspanish.com*, 14/10/08, http://www.typicallyspanish.com/news/publish/article_18424.shtml [accessed 14/10/08].

⁶⁴ See, for example, Emelia Viaña and Fernando Leguina, 'Marbella no podrá planificar su suelo', *Qué (Málaga)*, 30/11/05, p.11 and 'Costalot', *op. cit.*. Regarding the possible demolition of the Banana Beach complex specifically, see also Narváez, 'La maldición de Banana Beach', *op. cit.*

⁶⁵ Greenpeace, 'Destruction at all Co(a)sts: Greenpeace report about the Spanish coast situation' (English summary), Madrid and Barcelona, Greenpeace Madrid and Greenpeace Barcelona, June 2007, p. 16, <http://www.greenpeace.org/raw/content/espana/reports/resumen-destruccion-a-toda-cos-2.pdf> [accessed 07/08/08].

⁶⁶ Jiménez, *op. cit.*, pp. 261-262.

unlawfully constructed buildings has been virtually non-existent. Rather, demolition has been replaced with (low) fines, the payment of which has been treated as a *de facto* 'legalisation'⁶⁷. Moreover, many boroughs have simply introduced amendments to the town plan, 'so permitting urban development to take place where licences had been annulled by the courts precisely because they were not in compliance with the plan in force'⁶⁸.

Although Marbella is undoubtedly the most notorious town in the Costa del Sol for its association with crimes related to planning matters and so on, it is, however, by no means the only community in this area that has been affected by urban corruption. For example, in 2007, in the town of Alhaurín el Grande (Málaga), a short drive inland from Marbella, the mayor (Juan Martín Serón) and his planning boss were detained and charged with demanding 121,600 euros in commission, in exchange for not paralysing the construction works of a local developer and, a few months later, in the second phase of the so-called *Operación Troya*, 19 local businessmen were also arrested, accused of paying bribes in exchange for building licences⁶⁹. Police believed that the town hall had received at least 600,000 euros in 'donations' from businesses in the housing sector between 2005 and 2006⁷⁰. Also, early in 2008, it was reported that Juan Vera, the mayor of Tolox (Málaga), was facing 23 separate charges for planning crimes relating to the granting of licences, between 2004 and 2006, for the building of more than 2000 homes on land that was not classified for this purpose (the municipal secretary, a municipal architect and a legal advisor were also charged in some of the cases)⁷¹. Another municipality outside of Marbella that has also been affected by urban corruption is Estepona (Málaga). In the summer of 2008, as part of *Operación Astapa*, 26 people were detained (and 15 people were charged) for a range of crimes, including money laundering, bribery, peddling influence, embezzlement and prevarication. Those arrested included the mayor of Estepona at the time (Antonio Barrientos), the temporary mayor (Rafael Montesinos) who replaced Barrientos after his

⁶⁷ *Ibid.*, p. 260.

⁶⁸ *Ibid.*

⁶⁹ See, for example, Pérez and Viúdez, *op. cit.*

⁷⁰ 'New Audi and 50,000 house bought in cash as Alhaurin mayor's lifestyle analysed', *The Olive Press*, 28/03/08, <http://www.theolivepress.es/2008/03/28/new-audi-and-50000-house-bought-in-cash-as-alhaurin-mayors-lifestyle-analysed/> [accessed 08/10/08].

⁷¹ See, for example, Miguel Ángel Reina, 'La mayoría de los ayuntamientos de Málaga han sido investigados', *laopiniondemalaga.es*, 18/06/08,

http://www.laopiniondemalaga.es/secciones/noticia.jsp?pRef=2008061800_2_187165_Malaga-mayoria-ayuntamientos-Malaga-sido-investigados [accessed 11/08/08]; 'Tolox mayor faces 23 separate trials for planning crimes', *typicallyspanish.com*, 30/03/08,

http://www.typicallyspanish.com/news/publish/article_15820.shtml and EFE, 'La Fiscalía acusa al alcalde de Tolox de 23 delitos urbanísticos por licencias para 2.000 casas', *laopiniondemalaga.es*, 31/03/08,

http://www.laopiniondemalaga.es/secciones/noticia.jsp?pRef=2008033100_2_169751_Malaga-Fiscalia-acusa-alcalde-Tolox-delitos-urbanisticos-licencias-para-2000-casas [both accessed 21/11/08].

imprisonment for these charges, various town hall officials, technical experts, architects, lawyers and business people. The bank accounts of 91 companies and 78 people were also frozen. The corruption plot, it was alleged, was linked to the irregular financing of Estepona's town hall and involved the reclassifying of public land (so that it could be sold off to contacts at below-market prices) in return for receiving irregular donations from developers⁷².

The examples discussed above give us an insight into the kinds of urban corruption prevalent in the Costa del Sol region, but they are not anomalies. Indeed, it seems that such irregularities are widespread in this area⁷³. For example, in 2006, the Prosecutor's office in Málaga processed more than 200 reports of abuse and systemic corruption related to the real estate and construction industries, which resulted in judicial action against 20 out of 100 mayors in the province⁷⁴. Moreover, during 2007, the Public Prosecutor of Málaga opened 238 investigative proceedings and 189 judicial proceedings for urban crimes in the province (of which 96 corresponded to Málaga capital, 38 to coastal municipalities and 55 to inland towns)⁷⁵. In fact, the Public Prosecutor is even quoted as saying that:

[T]he list of municipalities that have not been denounced would be much shorter than the list of those that have had some proceedings initiated against them [...].⁷⁶

⁷² For details of this operation see, for example, Ministerio del Interior (MIR) (Dirección General de la Policía y de la Guardia Civil), 'La Policía Nacional desarrolla una operación contra la corrupción urbanística en Estepona', *Nota de prensa*, Madrid, MIR, 17/06/08, http://www.mir.es/DGRIS/Notas_Prensa/PDF_notas_de_prensa/2008/np061705.pdf; EFE, 'Imputado el alcalde accidental de Estepona por blanqueo, cohecho y tráfico de influencias', *elpais.com*, 15/07/08, http://www.elpais.com/articulo/espana/Imputado/alcalde/accidental/Estepona/blanqueo/cohecho/trafico/influencias/elpepuesp/20080715elpepunac_11/Tes; EFE, 'La juez mantiene la imputación de otros cuatro implicados en el caso Astapa', *elpais.com*, 21/07/08, http://www.elpais.com/articulo/espana/juez/mantiene/imputacion/otros/implicados/caso/Astapa/elpepuesp/20080721elpepunac_22/Tes [all accessed 30/07/08]; Nick Allen, 'Football stars' resort mired in corruption scandal', *The Daily Telegraph*, 28/06/08, p. 17 and Juana Viúdez, 'Estepona o la lógica de la corrupción', *elpais.com*, 22/06/08, http://www.elpais.com/articulo/andalucia/Estepona/logica/corrupcion/elpepuespand/20080622elpepunac_3/Tes [accessed 11/08/08].

⁷³ For details and a chronological list of all cases in Andalucía (and indeed elsewhere) between 2000 and 2007, see Fundación Alternativas, *Urbanismo y democracia. Mapa de presuntas irregularidades y actos de corrupción urbanística 2000-2007*, *op. cit.*, pp. 11-21 and pp. 169-219. A study carried out in 2002-2003, which looked into corruption activities in the construction sector of the Costa del Sol and its vulnerability to penetration by criminal groups, also produced some interesting findings in this respect. See José Luis Díez Ripollés, Ana María Prieto del Pino, Alejandra Gómez-Céspedes, Per Stangeland and Diego José Vera Jurado (eds.), *Prácticas ilícitas en la actividad urbanística: Un estudio de la Costa del Sol*, Valencia, Tirant lo Blanch and Instituto Andaluz interuniversitario de Criminología, 2004.

⁷⁴ See United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *2008 International Narcotics Control Strategy Report, Volume II: Money Laundering and Financial Crimes*, March 2008, p. 420, <http://www.state.gov/documents/organization/100917.pdf>, [accessed 06/06/08].

⁷⁵ See Reina, *op. cit.*, citing the annual report of the Public Prosecutor corresponding to 2007.

⁷⁶ See *ibid.* and EFE, 'Las administraciones tienen "una actitud complaciente" con los delitos medioambientales', *laopiniondemalaga.es*, 05/09/08, http://www.laopiniondemalaga.es/secciones/noticia.jsp?ppRef=2008090500_2_203232_Malaga-administraciones-tienen-actitud-complaciente-delitos-medioambientales [accessed 07/09/08], both quoting the annual report of the Public Prosecutor corresponding to 2007 (my translation).

Urban corruption has also affected Madrid. It has been noted previously in this thesis that Madrid's construction sector has been very active in recent years, and growth in this sphere has, indeed, been quite remarkable. The construction of new properties in the Community of Madrid increased from 15,334 in 1991 to 40,226 in 2003, for example⁷⁷. Furthermore, in 2004, there were more new properties built in the Madrid region (60,113 properties) than anywhere else in Spain and, in 2006, Madrid still topped the rankings in this respect (with 51,586 new properties constructed in that year)⁷⁸. Moreover, it would appear that this huge urban expansion is set to continue⁷⁹. Indeed, urban development in Madrid is so extensive that Beatriz Lobón from the capital's *Gerencia de Urbanismo* (Management of Town Planning) has been quoted as saying that it is 'unparalleled in Europe'⁸⁰. Perhaps inevitably, however, it would appear that such massive development has been accompanied by widespread corruption in the real estate sector.

In Madrid, just as in the Costa del Sol, numerous accusations relating to the reclassification of land, planning matters, the granting of irregular licences and preferential treatment in exchange for commissions, and so on, have also resulted in various mayors, public officials, town councillors, developers and even the ex-director general of Town Planning of the Community of Madrid, Enrique Porto⁸¹, being denounced for a range of offences including bribery, prevarication, corruption, influence peddling, embezzlement and prohibited negotiations⁸². In recent years, urban corruption has also been so widespread in this area that scandals have affected many of Madrid's municipalities (from the very smallest towns, such as Sevilla la Nueva or Aldea del Fresno (both southwest of the capital), to the largest, such as Ciempozuelos (south of the region) or Torreldones

⁷⁷ See Díez Ripollés and Gómez-Céspedes, *op. cit.*, p. 8, quoting data from the Spanish Ministry of Housing (Ministerio de Vivienda, *Número de viviendas libres iniciadas: Serie 1991-2006*, Viviendas libres por comunidades autónomas y provincias, Madrid, 2007, <http://www.mviv.es/es/>).

⁷⁸ To compare: in 2006, there were 51,531 new properties built in Barcelona; 37,058 in the Murcia region; 36,537 in Alicante; 34,291 in Valencia; and 32,794 in Málaga. See *ibid.*

⁷⁹ A newspaper article in 2005, for example, reported that there are plans to build 300,000 new dwellings with the capacity to house 900,000 people. See Lola Galán, 'Madrid, la fuerza del caos', *El País: Domingo*, 16/01/05, p. 1.

⁸⁰ *Ibid.*, p. 2, quoting Beatriz Lobón from the capital's *Gerencia de Urbanismo* (Management of Town Planning) (my translation).

⁸¹ See, for example, 'El ladrillo agita al PP y al PSOE', *Metro (Madrid)*, 18/10/06, p. 4; M. Oliver, 'El juez admite a trámite una querrela de Anticorrupción contra Porto', *ABC*, 02/10/07, p. 51; and Fundación Alternativas, *Urbanismo y democracia. Mapa de presuntas irregularidades y actos de corrupción urbanística 2000-2007*, *op. cit.*, p. 119, p. 123 and p. 293.

⁸² For details of some individual cases see, for example, Fundación Alternativas, *Urbanismo y democracia. Mapa de presuntas irregularidades y actos de corrupción urbanística 2000-2007*, *op. cit.*, pp. 119-127 and pp. 285-298; Manuel Cuéllar, 'El PSOE exige al PP que pare las operaciones urbanísticas relacionadas con los querrellados', *El País*, 22/06/03, p. 23; 'Atasco en Anticorrupción', *El Mundo: M2*, 15/11/06, p. 1; Pedro Blasco, 'PP y PSOE se pegan en Anticorrupción', *El Mundo: M2*, 15/11/06, p. 2; and Natalia Junquera, "'A ver qué se atreve a derribar esto'", *El País*, 14/11/06, p. 23.

(northeast of the region)⁸³). Indeed, Fundación Alternativas lists some 73 cases of alleged urban corruption reported between 1986 and 2006⁸⁴, and Madrid is seen as being another of Spain's 'hottest spots' for this type of illegal behaviour⁸⁵. Furthermore, although the prolific incidences of corruption and irregular behaviour in this sphere provide the 'perfect accompaniment' to the public fights and quarrels between Spain's two main political parties (with each party often presenting *querellas*⁸⁶ against the other in this respect)⁸⁷, scandals have also affected some of the smaller political parties in the municipalities of the region⁸⁸. As such, the examples of corruption related to real estate and planning matters in the Madrid region are too numerous to discuss in full. However, as a typical illustration, it is worth providing some further commentary on the Ciempozuelos corruption case; a case that is also regarded as the 'most famous case of urban corruption in Madrid' and 'one of the most important cases in the country' in recent times⁸⁹. In October 2006, Pedro Antonio Torrejón resigned from his position as mayor of Ciempozuelos amid allegations that he, and his predecessor Joaquín Tejeiro (who was mayor of the town between 1991 and 1995), had received a commission of 40 million euros in a suspicious land rezoning operation. Torrejón was accused of approving the building of more than 5,000 new homes by the construction company Esprode and overseeing the approval of new zoning rules in the town to the benefit of that company: Esprode had reportedly bought land for around 500 million euros after paying the commission to Tejeiro, who had apparently promised to have some rural land reclassified for construction purposes. It was also revealed that both of the former mayors had bank accounts in Andorra, and it was thought that these accounts were used to invest the money received from such commissions. In November 2006, both Torrejón and Tejeiro were charged with bribery and money laundering, and imprisoned – although they were subsequently released on bail⁹⁰.

⁸³ Fundación Alternativas, *Urbanismo y democracia. Mapa de presuntas irregularidades y actos de corrupción urbanística 2000-2007*, *op. cit.*, p. 120.

⁸⁴ See *ibid.*, pp. 285-298.

⁸⁵ See *ibid.*, p. 119 (my translation).

⁸⁶ In Spanish law, a *querrela* is a type of formal complaint, made to a court, with a request to carry out investigations. This can start criminal proceedings. See, for example, Elena Merino-Blanco, *Spanish Law and Legal System*, 2nd edition, London, Sweet & Maxwell Limited, 2006, pp. 153-154.

⁸⁷ Fundación Alternativas, *Urbanismo y democracia. Mapa de presuntas irregularidades y actos de corrupción urbanística 2000-2007*, *op. cit.*, p. 119. See also 'Atasco en Anticorrupción', *op. cit.* and Blasco, *op. cit.*

⁸⁸ Fundación Alternativas, *Urbanismo y democracia. Mapa de presuntas irregularidades y actos de corrupción urbanística 2000-2007*, *op. cit.*, p. 119 and pp. 285-298 generally.

⁸⁹ *Ibid.*, p. 121 (my translation).

⁹⁰ For full and further details of this case, see, for example, *ibid.*, pp. 121-122 and p. 296; Villoria, 'Country reports: Spain' in Transparency International, *Global Corruption Report 2008: Corruption in the Water Sector*, *op. cit.*, p. 273; 'Socialist mayor steps down over rezoning scandal', *El País* (English edition with the *International Herald Tribune*), 18/10/06, p. 1; 'El ladrillo agita al PP y al PSOE', *op. cit.*; Miguel Oliver, 'El ex alcalde de Ciempozuelos pactó repartir los 40 millones según el éxito de sus gestiones', *ABC*, 19/10/06, pp. 10-11; José Antonio Hernández, 'El ex alcalde de Ciempozuelos tenía 30 plumas de oro en la caja fuerte de un banco', *El País*, 14/11/06, p. 20; Pablo Herraiz, 'La Fiscalía quiere rebajar las fianzas', *El Mundo*, M2, 16/11/06, p. 6;

Galicia, too, has also been tainted by revelations of urban corruption. According to a report by Greenpeace, in recent years, Galicia has experienced the greatest number of land reclassifications in its history and, in the next few years, there are plans to build 800,000 new homes in the region's coastal towns (a figure that is almost comparable to what has been built on the coasts of Galicia in all of its history (816,000 homes))⁹¹. This increase in building activity, however, appears to have been accompanied, in recent years, by an escalation in crimes related to urban development, which Carlos Varela, the chief prosecutor in Galicia, sees as a 'source of risk of corrupt behaviour', which 'combines badly with the absolute fiasco that is the control systems of the public administration'⁹².

According to Greenpeace, the lack of control exercised by town councils is proved by the high number of mayors and councillors recently charged with urban development and land-use planning offences in Galicia⁹³. Indeed, Fundación Alternativas lists over 40 cases of alleged urban corruption reported between January 2000 and December 2006⁹⁴, and the 2007 annual report of Galicia's *Fiscalía Superior* (Chief Prosecutor) highlights an increase in the investigations and inquiries related to urban development matters, especially in the provinces of A Coruña and Pontevedra (with 72 per cent of legal proceedings related to urban planning in that year occurring in Pontevedra province alone)⁹⁵. In total, in 2007, urban development crimes and crimes relating to planning matters in Galicia led to 123 criminal investigations by provincial prosecutors, the lodging of 32 complaints relating to alleged illegal buildings, and 58 inquiries initiated by the courts of instruction⁹⁶.

It is quite clear why corruption of this kind occurs: local governments are poorly funded⁹⁷ and so this helps to increase the salaries of councillors and mayors and aids the financing of the town halls, which, it would appear, have come to depend on the income received from the granting of licences, land sales and property taxes, allowing local mayors

EFE, 'El mapa de la corrupción urbanística', *op. cit.*; 'Los seis imputados en el "Caso Ciempozuelos" comienzan hoy a declarar', *ABC.es*, 23/02/09, <http://www.abc.es/20090223/madrid-madrid/seis-imputados-caso-ciempozuelos-20090223.html>; Javier S. del Moral, 'Vuelve el "caso Ciempozuelos"', *elpais.com*, 24/02/09, http://www.elpais.com/articulo/madrid/Vuelve/caso/Ciempozuelos/elpepicpmad/20090224elpmad_3/Tes [both accessed 24/03/09].

⁹¹ See Greenpeace, *op. cit.*, p. 47.

⁹² See Pablo López, 'El fiscal denuncia en el Parlamento la escalada de delitos urbanísticos', *elpais.com*, 11/11/08, http://www.elpais.com/articulo/Galicia/fiscal/denuncia/Parlamento/escalada/delitos/urbanisticos/elpepiautgal/20081111elpgal_6/Tes [accessed 10/12/08] (my translation). See also Xosé Manuel Pereiro, 'Corrupción civil', *elpais.com*, 20/11/08, http://www.elpais.com/articulo/Galicia/Corrupcion/civil/elpepiautgal/20081120elpgal_29/Tes [accessed 10/12/08].

⁹³ Greenpeace, *op. cit.*, p. 47. See also p. 74 for examples of urban corruption cases in Galicia.

⁹⁴ See Fundación Alternativas, *Urbanismo y democracia. Mapa de presuntas irregularidades y actos de corrupción urbanística 2000-2007*, *op. cit.*, pp. 99-107 and pp. 275-283.

⁹⁵ See López, *op. cit.*, citing the 2007 annual report of Galicia's *Fiscalía Superior* (Chief Prosecutor).

⁹⁶ *Ibid.*

⁹⁷ See, for example, Díez Ripollés and Gómez-Céspedes, *op. cit.*, p. 23.

to spend more on vote-gaining projects⁹⁸. Indeed, it is estimated that local councils in the Costa del Sol region, for example, depend on such practices for as much as 70 per cent of their income⁹⁹. Further, Jiménez argues that urban corruption is caused by a confluence of three major factors: the peculiarities of the Spanish town-planning model; some alarmingly defective oversight mechanisms for municipalities; and the extraordinary growth of housing construction during the last decade or so¹⁰⁰. According to Fundación Alternativas, other factors that may help to explain the persistence of corruption in Spanish local councils include: political power being concentrated in the hands of one particular party; the 'strong mayor' form of municipal government that is typical of countries with a high degree of corruption; a legalistic rigidity which blocks the higher echelons of the bureaucracy from involvement in the design and decision-making processes of government and limits them to a merely passive role; and the size of the local district which is both heterogeneous (making comparison and competitiveness between local governments more problematic) and small-scale (favouring the consolidation of clientele networks and corruption centred around small groups of people)¹⁰¹.

Whatever the true cause, the cases uncovered in recent years and discussed above, both in terms of their quantity and severity, show that we must recognise the seriousness of this kind of activity, and what is particularly significant in terms of the overall argument of this thesis is that this pervasive urban corruption in various regions of Spain highlights some clear vulnerabilities in the political system, at local government level, that could be exploited by criminal groups. At the very least, this type of corruption shows how local politicians, and so on, can easily be tempted by bribes and kickbacks, which will always provide a favourable environment generally for illicit enterprise. Furthermore, in order to reap the benefits of their crimes, it is imperative that criminal groups launder the money gained from their illicit activities, and we saw in Chapter 2 how 'organised' criminals are already doing this in the construction sector. Thus, in relation to the urban corruption scandals discussed here, although there is no evidence to say that the bribes accepted by the mayors and local officials in these particular cases came directly from criminals engaged in illicit enterprise, we do not need to stretch our imaginations too far to see how such practices could happen, because it is certainly clear that 'organised' criminals are willing to

⁹⁸ Interview P11. See also Jennifer Sands, 'Organized Crime and Illicit Activities in Spain: Causes and Facilitating Factors', *Mediterranean Politics*, Vol. 12, No. 2, 2007, p. 224 and 'Building Blocks', *Economist.com*, 14/09/06, http://www.economist.com/displayStory.cfm?story_id=7912923 [accessed 18/03/07].

⁹⁹ Interview J1; 'Building Blocks', *op. cit.*; and 'Costalot', *op. cit.*

¹⁰⁰ See Jiménez, *op. cit.*, pp. 255-272.

¹⁰¹ Fundación Alternativas, *Report on Democracy in Spain 2009: Alliances for a New Spanish Prosperity – Towards a New Global Deal*, *op. cit.*

corrupt and that politicians (and others) in Spain are willing to be corrupted¹⁰². Certainly, as Antonio Romero, ex-member of the parliament of Andalucía for the political party *Izquierda Unida* (IU) (United Left) said, this kind of urban clientelism can 'lure' mafias¹⁰³.

Despite the seeming prevalence of this kind of corruption, however, incidences of political corruption are not limited to urban planning matters. In the Madrid region, for instance, there are examples of other kinds of political corruption at various levels of governance. For example, one of the professionals questioned during the course of this research, highlighted the existence of corruption related to the awarding of contracts and permits to businesses¹⁰⁴ and, perhaps, one of the most notable and recent examples of this type of corruption would be that revealed by *Operación Guateque*, which unravelled at the end of 2007, and which one newspaper called 'the largest operation against this type of municipal corruption carried out in the capital'¹⁰⁵. In November 2007, 16 public officials from Madrid's city hall were detained, and accused of crimes involving influence peddling, bribery and prevarication, for allegedly forming a network that was charging fees in exchange for the granting of licences. The officials, apparently, were charging commissions of between 3,000 and 18,000 euros to expedite the delivery of licences needed for the opening of entertainment and leisure establishments (which otherwise could take up to two years to gain), or to delay sanctions to such businesses (which were imposed when a change had been made to the premises). Also implicated in the case were a number of lawyers, architects and business owners (who had illegally obtained the licences). By February 2008, 25 people had been charged as suspects in this case¹⁰⁶.

Furthermore, it is worth briefly mentioning the recent *Gürtel* case, as it involves allegations of political corruption at regional and also national level, providing us with a 'true illustration of high-level corruption'¹⁰⁷. In February 2009, an investigation by the National Court judge Baltasar Garzón, the Anti-Corruption Public Prosecutor and the *Unidad de Delincuencia Económica y Fiscal* (UDEP) (Unit of Economic and Fiscal Crime)

¹⁰² This point was also made by this author in Sands, *op. cit.*, p. 225.

¹⁰³ See 'IU denuncia que más de 120 grupos de la mafia internacional operan en la Costa del Sol', *abadesevilla.es*, 05/01/06, http://www.abadesevilla.es/hemeroteca/historico-05-01-2006/sevilla/Andalucia/iu-denuncia-que-mas-de-120-grupos-de-la-mafia-internacional-operan-en-la-costa-del-sol_813462096368.html [accessed 10/10/08], quoting Antonio Romero, ex-member of the parliament of Andalucía for the political party IU.

¹⁰⁴ Questionnaire QD.

¹⁰⁵ See "Sin un kilo, no hay licencia", *El País: Madrid*, 15/11/07, p. 1 (my translation).

¹⁰⁶ For further details of this case, see, for example, *ibid.*, pp. 1-2; Raúl Rejón and Saray Marqués, 'Trama de corrupción', *aDn (Madrid)*, 15/11/07, p. 3; Ana G. Arias, 'Comisiones por licencias', *Metro (Madrid)*, 15/11/07, p. 2; 'Los presuntos cabecillas de la Operación Guateque se verán las caras ante el juez el próximo Lunes', *aDn.es*, 28/01/08, <http://www.adn.es/local/madrid/20080128/NWS-1196-guateque-declaracion-cabecillas-carreo.html>; and 'Another suspect in the Guateque corruption case in Madrid', *typicallyspanish.com*, 19/02/08, http://www.typicallyspanish.com/news/publish/article_15191.shtml [both accessed 25/03/09].

¹⁰⁷ Fundación Alternativas, *Report on Democracy in Spain 2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, *op. cit.*, Chapter 4.

culminated in the disclosure of an alleged framework of corruption linked to the PP. It would appear that Spain's 'most important'¹⁰⁸ recent corruption scandal involves PP politicians and officials (predominantly in the Madrid and Valencia regions), being accused of receiving backhand commissions and kickbacks in exchange for the granting of contracts to various companies. For example, it has been reported that the companies involved in the corruption plot had obtained contracts from public administrations governed by the PP, and that the PP had received various services from such companies during public events and elections (relating to catering, publicity, the organisation of elections, and so on). The scandal also appears to involve an element of urban planning corruption. Initially, five people were detained and another 30 people were implicated in the case. By 11 February 2009, however, the number of people charged had risen to 37, and there were six arrests¹⁰⁹ and, on 27 March 2009, it was reported¹¹⁰ that the number of people implicated in the scandal had reached almost 70¹¹⁰. Eventually, 90 people were charged in the affair¹¹¹ (several politicians have also resigned, or been dismissed, from the PP as a result of the investigations). Those implicated in the case have included a number of leaders of the PP, such as Luis Bárcenas, the then treasurer of the party and senator; Jesus Merino, a national member of parliament for the PP; Francisco Camps, president of the Valencia region; Ricardo Costa, (at the time) the PP's second-in-command in Valencia; and various councillors from the Madrid regional government¹¹², as well as four ex-mayors from the Madrid region, a number of lawyers (who were acting as managers or administrators of the companies involved), business people from the construction and real estate sectors (who were using the network's connections to obtain land deals or reclassifications from town halls governed by the PP) and, even, a Member of the European Parliament (MEP). The accusations made against these people involve crimes of bribery, influence peddling, money laundering, fiscal fraud and illicit association¹¹³, and it is

¹⁰⁸ See *ibid.*

¹⁰⁹ See, for example, 'Judge indicts a further 34 people in the P.P. corruption case', *typicallyspanish.com*, 10/02/09, http://www.typicallyspanish.com/news/publish/article_20005.shtml [accessed 11/02/09].

¹¹⁰ See, for example, EFE and ELPAÍS.com, 'Garzón imputa a otras 10 personas en el "caso Gürtel" de corrupción', *elpais.com*, 27/03/09, http://www.elpais.com/articulo/espana/Garzon/imputa/otras/personas/caso/Gurtel/corrupcion/elpepuesp/20090327elpepunac_7/Tes [accessed 28/03/09].

¹¹¹ Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, *op. cit.*, Chapter 4.

¹¹² *Ibid.*

¹¹³ For full and further details of this case, see, for example, Francisco Mercado, 'Garzón desmantela una gran trama de corrupción política vinculada al PP', *elpais.com*, 07/02/09, http://www.elpais.com/articulo/espana/Garzon/desmantela/gran/trama/corrupcion/politica/vinculada/P/elpepiesp/20090207elpepinac_1/Tes; 'Resignations and another arrest as the P.P. corruption scandal continues', *typicallyspanish.com*, 10/02/09, http://www.typicallyspanish.com/news/publish/article_19993.shtml; 'La trama corrupta se amplía a 37 imputados', *elpais.com*, 11/02/09,

possible that the corrupt activities are linked to party financing¹¹⁴. In response, the PP has argued that the *Gürtel* case is a political attack on the party¹¹⁵. However, the data presented by the prosecution does not support this allegation. In November 2009, the Attorney General, appearing before the Parliament, reported on the on-going corruption cases against public officials, and of a total of 730 cases, 264 pertained to PSOE members and 200 to PP members (and members of other parties were also involved in the cases), indicating that the PP was no more persecuted than the PSOE¹¹⁶. Other recent corruption scandals involving the PP, however, include, for example, the *FUNDESCAM* case: in May 2009, it was revealed that the PP had used a foundation, linked to the party, to finance electoral meetings and so on¹¹⁷.

Having discussed some of the most scandalous and notable Spanish corruption cases that have surfaced in recent years, it is now worth posing two questions. Firstly, as this chapter has so far focussed mainly on examples of political corruption, can we say that this is the only, or most important, type of corruption occurring in Spain? Secondly, given the focus of the thesis, is any of the corruption occurring in Spain caused by, or linked to, 'organised crime' or illicit enterprise (and, for the purposes of the hypothesis, does this matter)? These are questions which will be addressed in the remaining parts of this chapter.

According to Fundación Alternativas, the corruption occurring in Spain is most predominantly linked to 'the activity of politicians, especially in the field of urban

http://www.elpais.com/articulo/espana/trama/corrupta/amplia/37/imputados/elpepiesp/20090211elpepinac_2/Tes [all accessed 11/02/09]; 'Partido Popular corruption case takes on new level', *typicallyspanish.com*, 26/02/09, http://www.typicallyspanish.com/news/publish/article_20225.shtml; Jane Walker, 'Top Spanish judge accused of exceeding his powers', *irishtimes.com*, 26/02/09, <http://www.irishtimes.com/newspaper/world/2009/0226/1224241834321.html>; 'Judge Baltasar Garzón steps down from the Gürtel case', *typicallyspanish.com*, 06/03/09, http://www.typicallyspanish.com/news/publish/article_20343.shtml [all accessed 25/03/09]; 'Judge indicts a further 34 people in the P.P. corruption case', *op. cit.* and EFE and ELPAÍS.com, *op. cit.*

¹¹⁴ See Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, *op. cit.*, Chapter 4.

¹¹⁵ At the end of February 2009, as well as accusing judge Baltasar Garzón of leaking confidential information to the press, the PP also issued a formal complaint against him, insinuating that he was guilty of perverting the course of justice for refusing to transfer the case to the regional High Courts (as the case allegedly involves deputies, a senator and an MEP, parliamentary privilege means that the case is prohibited from investigation by the National Court). Early in March 2009, however, Garzón handed the *Gürtel* case over to the High Courts in Madrid and Valencia. See, for example, 'Partido Popular corruption case takes on new level', *op. cit.*; Walker, *op. cit.*; and 'Judge Baltasar Garzón steps down from the Gürtel case', *op. cit.* Spain's Justice Minister from the governing PSOE, Mariano Fernández Bermejo, has also been caught up in the scandal. He resigned in February 2009 after being criticised for going on a hunting trip with Garzón. The PP accused Fernández Bermejo, who also did not have the relevant hunting licence, of interfering in Garzón's investigations in order to discredit the PP ahead of regional elections in the Basque Country and Galicia on 01/03/09. See, for example, Walker, *op. cit.* and 'Spanish justice minister resigns', *BBC News*, 23/02/09, <http://news.bbc.co.uk/1/hi/world/europe/7905830.stm> [accessed 23/02/09].

¹¹⁶ See Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, *op. cit.*, Chapter 4.

¹¹⁷ See *ibid.*

development, local council administration and, to a large extent, to party funding'¹¹⁸. However, as we will see below, corruption in Spain does not just occur in the political sphere; it reaches other arenas too (such as the judiciary and law enforcement), and it implicates other professions (such as customs officials¹¹⁹). Opinions on the extent to which it does so, though, differ. In relation to the police forces, Fundación Alternativas argues that corruption is 'almost totally absent' in the police forces¹²⁰ and that bribes paid to the police are 'practically non-existent'¹²¹. A minority of the interview and questionnaire respondents agreed with this view¹²². However, during the course of nine of the interviews undertaken for this research (five of them with police officials), those interviewed either mentioned specific examples of police corruption or talked about corruption generally involving members of the police forces in Spain¹²³ (and the respondent of one questionnaire agreed that there was corruption in the police¹²⁴). Similarly, in relation to the judiciary, Hooper, for example, argues that 'the corrupting of judges is disturbingly commonplace'¹²⁵ in Spain (and five of the interview/questionnaire respondents mentioned corruption in the judiciary¹²⁶). A prominent example of judicial corruption would be that involving Luis Pascual, a former judge in Barcelona and one-time member of the General Council of the Judiciary, who, during the early 1990s had accepted bribes and run an 'extortion racket' (which also involved the high profile lawyer, Joan Piqué Vidal)¹²⁷. Yet, despite examples such as these (and others that will be given below), two of the interview sources claimed that there is no corruption in the judiciary (at least not nowadays)¹²⁸ and the respondents of two of the questionnaires disagreed or strongly disagreed that there is

¹¹⁸ *Ibid.*

¹¹⁹ The professional interviewed in interview C2 claimed that customs officials were the 'most corrupted' and this was a result of poor pay. According to this source, corruption in this sphere usually involves an official giving information about a particular operation. The professional interviewed in interview M2 also mentioned past cases of corruption involving customs officials. See also 'Annex 3: Case Study – Spain' in Center for the Study of Democracy (CSD), *Examining the Links between Organised Crime and Corruption*, CSD/European Commission, 2010, pp. 194-195, http://ec.europa.eu/home-affairs/doc_centre/crime/docs/study_on_links_between_organised_crime_and_corruption_en.pdf [accessed 10/04/11].

¹²⁰ Fundación Alternativas, *Report on Democracy in Spain 2009: Alliances for a New Spanish Prosperity – Towards a New Global Deal*, *op. cit.*, pp. 233-234.

¹²¹ Fundación Alternativas, *Report on Democracy in Spain/2010: The Erosion of Confidence and Well-being. Against citizens' disaffection*, *op. cit.*, Chapter 4, citing Transparency International, *Global Barometer on Corruption*, 2009.

¹²² It was argued during interview F1 that police corruption was 'rare' and the respondent of questionnaire QB showed their disagreement with the viewpoint that there was corruption in the police.

¹²³ Interviews P1, P2, P3, P8, P9, J3, J8, M1 and M2.

¹²⁴ Questionnaire QA.

¹²⁵ See John Hooper, *The New Spaniards*, 2nd edition, London, Penguin Books Ltd., 2006, p. 335.

¹²⁶ Interviews P1, P9, P14 and J3, and questionnaire QA.

¹²⁷ Paul M. Heywood, 'Corruption in Contemporary Spain', *op. cit.*, p. 697. See also 'Annex 3: Case Study – Spain', *op. cit.*, pp. 197-198.

¹²⁸ Interviews P3 and F1.

judicial corruption¹²⁹. The reasons behind these differing opinions are not clear. As discussed above and elsewhere in this thesis, it is likely that opinions are based on people's own personal circumstances and their own realities and experiences of corruption. It may also be true that corruption in the law enforcement and judicial spheres is not as extensive (or visible) as corruption in the political sphere. However, that is not to say we cannot find examples of police or judicial corruption in Spain (as we will see below), which would appear to support the hypothesis advanced in this thesis.

Yet, how much of the political, judicial, police and other corruption occurring in Spain is connected to 'organised crime' or illicit enterprise? Results from the European Commission's 2008 *Special Eurobarometer* shows that public opinion in Spain is divided as to whether most of the corruption in Spain is actually *caused* by 'organised crime'¹³⁰ and, in relation to some of the corruption cases discussed above, there is no suggestion at all that they have any link with illicit enterprise. Yet, as will be argued subsequently, even these cases may still provide a favourable environment generally for criminals because they highlight areas of weakness that could, potentially, be exploited by them. Furthermore, worryingly, some cases of corruption in Spain are linked to 'organised crime' and examples such as these directly serve to aid criminals and facilitate illicit enterprise in one way or another. By way of quick illustration here, for example, we could mention the arrests, in 2007, of Eduard Planells (a former sub-delegate of the central government) and other officials in Barcelona for their alleged links with members of the Russian Mafia¹³¹, or the law enforcement officers posted in the small towns around Cádiz who are systematically bribed to the point that these officers actually seem to regulate the trafficking of drugs and people across the Strait of Gibraltar¹³², or even the cases involving the 'loss' or removal of evidence and judicial documents pertaining to 'organised crime' cases from some Spanish courts¹³³. However, the discussion of the case of Galicia below particularly illustrates the

¹²⁹ The respondents of questionnaires QB and QJ disagreed and strongly disagreed (respectively) that there is corruption in the judiciary.

¹³⁰ European Commission, *op. cit.*, p. 17.

¹³¹ See, for example, Nando García, 'Detenido el ex subdelegado del Gobierno en Barcelona por dar "papeles" a la mafia rusa', *El Mundo*, 17/07/07, p. 18; Marta Rodríguez, 'Detenido por corrupción un ex subdelegado del Gobierno', *aDn (Madrid)*, 17/07/07, p. 6; 'Cataluña activa su redada antimafia', *Metro (Madrid)*, 17/07/07, p. 6; J. Yoldi, 'El juez deja en libertad con cargos al ex subdelegado Planells', *El País*, 18/07/07, p. 22.

¹³² See Alejandra Gómez-Céspedes and Per Stangeland, 'Spain: The Flourishing Illegal Drug Haven in Europe' in Cyrille Fijnaut and Letizia Paoli (eds.), *Organised Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*, Dordrecht, The Netherlands, Springer, 2004, p. 402.

¹³³ For example, in February 2006, various tapes incriminating drug traffickers were lost in the National Court. In August 2001, it was reported that at least 15 judicial records (connected to Jesús Gil) went missing from the Marbella courts. See 'Annex 3: Case Study – Spain', *op. cit.*, p. 197, fn 103 and fn 104. For other examples of 'organised crime'-related police corruption, see, for example, 'Confirman la pena de once años de cárcel para Masa por narcotráfico', *ABC*, 05/05/04, p. 18; Luis Gómez, 'Delincuentes con placa', *El País*, 16/01/05, p. 28; Levante-EMV, 'El policía detenido por supuesto tráfico de drogas es sobrino y ex escolta de

link between some cases of corruption and 'organised crime' and how corruption can make a region more vulnerable to illicit enterprise.

Undoubtedly, some of the examples of corruption in Galicia have facilitated, or created a favourable environment for, the criminal activities carried out in the region. However, before discussing these specific examples more fully, and in order to highlight the general attitude to, and the context of, such behaviour in Galicia, it is perhaps worth noting primarily that *caciquismo* (caciquism)¹³⁴, as a form of organised electoral corruption, worked 'extremely well' in this part of Spain in the nineteenth century¹³⁵. Furthermore, despite some subsequent protests and movements against this¹³⁶, forms of *caciquismo*, or clientelism (as a re-creation of the old *caciquismo*), seem to have continued in Galicia, perhaps even until very recently. Several writers, or commentators, for example, still allude to the persistence of such practices in certain spheres in contemporary times¹³⁷ and, in 2005, a survey undertaken by Instituto Opina¹³⁸ revealed that 10.4 per cent of Galicia's citizens viewed the 'political situation and *caciquismo*' as the region's 'most pressing' problem¹³⁹. This background, then, perhaps explains why acts of corruption of all kinds seem to have occurred frequently in this autonomous community.

In terms of corruption that is directly related to the smuggling and criminal activities in Galicia, several examples can be offered. Primarily, the smuggling activities carried out historically in Galicia enjoyed 'the important complicity of the police forces and financial institutions', and 'the social and political context was extremely benevolent with

Fabra', *Levante-El Mercantil Valenciano*, 23/10/08, p. 8; 'El "ertzaina" detenido por narcotráfico dirigía la banda', *elpais.com*, 18/11/08, http://www.elpais.com/articulo/pais/vasco/ertzaina/detenido/narcotrafico/dirigia/banda/elpepiesppvs/20081118elpvas_11/Tes/ [accessed 10/12/08].

¹³⁴ Gemie, for example, defines *caciquismo* as an informal, but effective, agreement between the main political parties to decide the results of elections between themselves, by using bribes, sermons, the threat of violence, and so on, to influence voters about which party they should vote for. See Sharif Gemie, *A Concise History of Galicia*, Cardiff, University of Wales Press, 2006, pp. 33-38.

¹³⁵ See *ibid.* and also pp. 141-142.

¹³⁶ See, for example, *ibid.*, Chapter 3.

¹³⁷ For example, in an article about construction in Galicia, Víctor López refers to the presence of an 'immense' *caciquismo*. See Víctor López, 'Heridas de cemento en el paisaje', *El País*, 12/06/05, p. 24. Likewise, Fermín Bouza makes reference to such a system in a 2005 press article titled 'The fatigue of being Galician'. See Fermín Bouza, 'El cansancio de ser gallego', *El País*, 05/06/05, p. 19 (my translation). Also, Camilo Nogueira accuses Galicia's governments of practising a clientelistic distribution of public money (see Camilo Nogueira, 'La hermana atlántica', *El País*, 05/06/05, p. 19) and, in a 2005 interview published in *El País*, Emilio Pérez Touriño, who was the President of Galicia from 2005 until the elections of 01/03/09, discussed his plans for changing a power system based on clientelism (see Xosé Hermida, Interview with Emilio Pérez Touriño, Presidente electo de Galicia, *El País*, 31/07/05, p. 24).

¹³⁸ Instituto Opina is a Spanish company that carries out public opinion polls and market research. See www.opina.es.

¹³⁹ In effect, this issue was revealed as the fourth most pressing problem: most of the people surveyed (50.9 per cent) viewed unemployment as the most pressing problem, which was followed by infrastructure (25.3 per cent) and the economy (16.1 per cent). See 'El 46,9% cree que Galicia es peor tratada que otras comunidades', *El País*, 08/05/05, p. 19, citing the results of a survey carried out by Instituto Opina (my translation).

this state of affairs¹⁴⁰. Indeed, in 2001, José Ramón Barral Martínez, the mayor of Ribadumia (Pontevedra) for the PP, was arrested for his involvement in the smuggling of half a million packets of contraband tobacco. Apparently, however, he was not a newcomer to such activities: three decades ago, he was one of the main introducers of contraband in the Ría de Arousa, working with some of those who later became major drug trafficking *capos*, and he is seen as a key figure in the development of illegal activities in Arousa (Pontevedra)¹⁴¹. At the time of his arrest, it was said that his detention resuscitated 'old phantoms about the collusion of politicians of the right with contraband tobacco in Arousa'¹⁴². Indeed, accusations of corruption against the PP under Manuel Fraga (the President of Galicia between 1989 and 2005) were frequently made¹⁴³ and these have transcended the allegations relating to contraband tobacco. For example, the *Observatoire Géopolitique de Drogues* (OGD) (Geopolitical Drugs Watch) has argued that the hegemonic power of the PP in Galicia (since the restoration of democracy in the late 1970s until 2005) and the conservative ideology of the region's drug traffickers 'have led to more dirty money accruing to the PP'¹⁴⁴. However, criticism is also directed at the PSOE, which, in the past, has governed cities such as A Coruña, Santiago de Compostela and Vigo and which, the OGD claimed, had also succumbed to the temptation of drug money¹⁴⁵. As such:

Drug money has served to assure the long-term stability of the powerful patronage networks supporting the Galician political system, and to build fortunes for prominent local politicians.¹⁴⁶

However, it is not just politicians in Galicia that have been corrupted by 'organised' criminals: members of the police forces and the judiciary have been embroiled too (by acting as informants for drug traffickers, for example¹⁴⁷). With regard to police corruption in Galicia, although one interview source believed that cases were few in number, 'but continuous'¹⁴⁸, another claimed that local officers from both the National Police and the Civil Guard, who receive modest salaries, are easily 'paid off'¹⁴⁹, and another stated that the

¹⁴⁰ Carlos Resa-Nestares, 'Transnational Organized Crime in Spain: Structural Factors Explaining its Penetration' in Emilio C. Viano (ed.), *Global Organized Crime and International Security*, Aldershot, Ashgate Publishing Ltd., 1999, p. 53.

¹⁴¹ See, for example, Xosé Hermida, 'Una "sorpresa" poco sorprendente', *El País*, 18/05/01, p. 24.

¹⁴² *Ibid.* (my translation).

¹⁴³ Gemie, *op. cit.*, pp. 144-145. For further details about Fraga and his political career, see also, for example, Gemie, *op. cit.*, Chapter 5.

¹⁴⁴ OGD, *op. cit.*, p. 91.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.* During interview P1, it was also claimed that many mayors in Galicia have been promoted with the funds from smuggling and trafficking, and the professional interviewed in interview P4 also talked of corruption involving local politicians.

¹⁴⁷ OGD, *op. cit.*, p. 90.

¹⁴⁸ Interview J2.

¹⁴⁹ Interview P2. A similar point was also raised during interview P1.

police in Galicia simply 'turn a blind eye'¹⁵⁰. Moreover, Resa-Nestares recalls the symptomatic case concerning the head of the *Servicio Fiscal de la Guardia Civil* (Fiscal Service of the Civil Guard) who, during a police investigation into smuggling bands in Galicia, told the newspaper with the largest circulation in Spain that an important network of telephone taps had been set up in the region and that the authorities had dossiers on almost 3,000 people who, potentially, had some connection to smuggling activities. Such 'advance warnings' clearly damage police operations, if not render them impossible¹⁵¹. In respect of the judiciary, the OGD gives an example relating to drug baron Sito Miñanco (discussed further in Chapter 5) who, some years ago, attracted attention when one of his friends, Rafael Mendizabal, helped his lawyer, Gerardo Quintana, convince the Constitutional Court that charges against him should be dropped. Both Quintana and Mendizabal were close to Miguel Moreiras, then a judge of the National Court (in charge of investigating international drug trafficking cases), who was later expelled from the judiciary for various wrongdoings¹⁵².

The types of corruption in Galicia that have been discussed here (as well as others relating to urban corruption and so on), therefore, uncover some clear weaknesses in the region's political system and state institutions, which could not only be potentially exploited by criminals engaged in illicit enterprise, but which actively and comprehensively are. The examples of corruption and complicity involving politicians, law enforcement officers and members of the judiciary, which are explicitly linked to illicit enterprise, have directly aided smugglers and traffickers in this region and facilitated their activities. Although one of the interview sources asserted that corruption was not a problem in Galicia, at least in recent years (claiming 'it's not like in the Costa del Sol'),¹⁵³ and another claimed that corruption was 'not widespread'¹⁵⁴, the view of another professional interviewed for this research was that, 'the gangsters are so powerful [...] they can do whatever they want'¹⁵⁵. If this is the case, the weaknesses revealed through the instances of corruption discussed above may allow us to understand more fully why this region is so vulnerable to illicit enterprise.

Galicia, however, is not the only region in which we can find examples of corruption directly related to illicit enterprise, nor is it the only region in which we can find examples of judicial and police corruption. Indeed, although political corruption, related to real estate and construction, appears to be the most prevalent kind of corruption that we, at

¹⁵⁰ Interview J6.

¹⁵¹ See Resa-Nestares, *op. cit.*, p. 59.

¹⁵² See OGD, *op. cit.*, p. 90.

¹⁵³ Interview J1.

¹⁵⁴ Interview P8.

¹⁵⁵ Interview P2.

least, know of in the Costa del Sol, we can also find incidences of other types of corruption in this region. At this point, therefore, it is worth discussing *Operación Hidalgo*, which started to unravel in Marbella in April 2007. More than 20 people (including economists, lawyers, notaries and their employees and clients) were detained for laundering money, derived from 'organised' criminal activities on an international scale (mainly drugs and arms trafficking and prostitution). It is thought that the money was laundered through some 800 'ghost' companies, which were set up expressly for the purpose. During this operation, 92 million euros were seized, along with 553 properties, 60 luxury cars and numerous jewels (exceeding even the magnitude of what was seized in the notorious *Ballena Blanca* case of 2005)¹⁵⁶. In addition to the cases discussed in Chapter 2, therefore, this operation gives us a further insight into the extensive money laundering taking place in the Costa del Sol. Additionally, however, this operation also allows us to observe an example of judicial corruption. The initial examining magistrate in this case, Francisco Javier de Urquía, was suspended in July 2007 and charged with prevarication and bribery in connection with the *Malaya* corruption case (discussed above). These charges centred on the judge knowingly passing unjust sentences and accepting bribes (particularly, he is accused of accepting 78,300 euros from Juan Antonio Roca so that he could buy a property, in return for giving legal favours to Roca and for stopping the broadcast of a television programme that was going to examine and investigate Roca's huge financial assets)¹⁵⁷. In August 2008, De Urquía was sentenced to two years in prison for these offences¹⁵⁸. Before this, however, in February 2008, it was reported that further, and unrelated, criminal proceedings had been

¹⁵⁶ For details of this operation see, for example, 'Detenidas 21 personas en una operación contra el blanqueo de dinero', *Lavozdigital.es*, 17/04/07, http://www.lavozdigital.es/cadiz/20070417/espana/detenidas-personas-malaga-delito_200704171052.html; '21 arrests in new swoop against money laundering in Marbella', *typicallyspanish.com*, 18/04/07, http://www.typicallyspanish.com/news/publish/printer_9967.shtml; MIR (Dirección General de la Policía y de la Guardia Civil), 'La Policía Nacional detiene a dos personas reclamadas por su implicación en la operación "Hidalgo" contra el blanqueo', *Nota de prensa*, 06/06/07, Madrid, MIR, http://www.mir.es/DGRIS/Notas_Prensa/Policia/2007/np060604.html; Juana Viúdez, 'Dos nuevos detenidos en la operación Hidalgo contra el blanqueo', *elpais.com* (Andalucía), 07/06/07, http://www.elpais.com/articulo/andalucia/nuevos/detenidos/operacion/Hidalgo/blanqueo/elpepiespand/20070607elpand_19/Tes; J. Martín-Arroyo and M. Altozano, 'Segundo proceso contra el juez De Urquía por cohecho y prevaricación', *elpais.com*, 01/02/08, http://www.elpais.com/articulo/espana/Segundo/proceso/juez/Urquia/cohecho/prevaricacion/elpepiespand/20080201elpepinac_24/Tes; Juana Viúdez, 'Un caso con dos jueces', *elpais.com* (Andalucía), 01/02/08, http://www.elpais.com/articulo/andalucia/caso/jueces/elpepiespand/20080201elpand_9/Tes/ [all accessed 29/07/08]; Pérez and Viúdez, *op. cit.*; Díez Ripollés and Gómez-Céspedes, *op. cit.*, pp. 18-19 and Juana Viúdez, 'Una nueva investigación de blanqueo reactiva el "caso Hidalgo"', *elpais.com*, 08/11/08, http://www.elpais.com/articulo/andalucia/nueva/investigacion/blanqueo/reactiva/caso/Hidalgo/elpepiespand/20081108elpand_3/Tes [accessed 20/11/08].

¹⁵⁷ See, for example, 'Suspenden al juez de la "operación Hidalgo" por su relación con "Malaya"', *20minutos.es*, 06/07/07, <http://www.20minutos.es/noticia/256218/juez/hidalgo/malaya/> [accessed 29/07/08] and Martín-Arroyo and Altozano, *op. cit.*

¹⁵⁸ See, for example, Juana Viúdez, 'El juez Torres, testigo en la Segunda causa contra Urquía', *elpais.com*, 04/09/08, http://www.elpais.com/articulo/andalucia/juez/Torres/testigo/segunda/causa/Urquia/elpepiespand/20080904elpand_1/Tes [accessed 20/11/08].

started against him. Again, he was accused of alleged crimes of prevarication and bribery and, particularly, the later proceedings were investigating whether De Urquía (together with a businessman and a magazine editor) participated in attempts of extortion in relation to some of those implicated in the *Hidalgo* case (for example, by releasing some of the people concerned from prison, in exchange for money)¹⁵⁹. De Urquía is not the first judge to be suspended in Marbella, however. In 1999, judge Pilar Ramírez, then a senior member of Marbella's courts, was suspended for the alleged commission of two serious offences, which included, for example, her tampering with cases involving Jesús Gil (who was mayor at the time) and two supposed Italian *mafiosi*, who apparently had close economic relations with some members of her family¹⁶⁰.

Additionally, we can also find examples of corruption and impropriety involving the police forces in the Costa del Sol. Examples here range from some comparatively minor matters, such as the demanding of money by 19 agents of the Civil Guard (who were arrested in February 2006), in exchange for 'speeding up or omitting' the formal steps relating to the inspection of suitcases in customs at Málaga's airport¹⁶¹, to more serious matters, such as members of the police forces being implicated in illicit enterprise. For example, in 2001, four Civil Guards (three in active service and one retired) were detained in Málaga and Sevilla for their alleged participation in a drug trafficking network. The agents were accused of giving information to the criminal group about the surveillance of marinas in the Costa del Sol (where the drugs were being smuggled)¹⁶². More recently (in March 2008), four senior members of the Costa del Sol's *Unidad de Drogas y Crimen Organizado* (UDYCO) (Drugs and Organised Crime Unit) were accused of corruption and detained for crimes including the illegal possession of arms, the revelation of confidential information, bribery, embezzlement and the dereliction of duty. The case related to alleged payments received from Russian citizens for information on police surveillance operations¹⁶³. From time to time, smaller stories also appear in the local press, which reveal

¹⁵⁹ See, for example, *ibid.*; Martín-Arroyo and Altozano, *op. cit.*; and Viúdez, 'Una nueva investigación de blanqueo reactiva el "caso Hidalgo"', *op. cit.*

¹⁶⁰ See, for example, Manuel Cerdan, Antonio Rubio and Eduardo Inda, 'Proponen la expulsión de la juez Ramírez', *El Mundo*, 17/12/99, <http://www.elmundo.es/papel/hemeroteca/1999/12/17/espana/789080.html> [accessed 23/11/08] and Irujo and Ordaz, *op. cit.*, p. 4.

¹⁶¹ Questionnaire QA and interview P2. See also Pérez and Viúdez, *op. cit.*

¹⁶² See, for example, E. Peláez, 'Detenidos cuatro guardias civiles vinculados a una red de narcotráfico', *El País*, 03/08/01, p. 16.

¹⁶³ See, for example, José Carlos Villanueva, 'Decretan prisión para el jefe y un inspector de la Udyco de la Costa del Sol', *elmundo.es*, 14/03/08, <http://www.elmundo.es/elmundo/2008/03/14/espana/1205525811.html> [accessed 11/08/08]; 'More than 40 National Policemen questioned in Málaga as corruption investigation continues', *typicallyspanish.com*, 16/03/08, http://www.typicallyspanish.com/news/publish/article_15598.shtml [accessed 23/11/08] and

that individual members of the police forces are actually involved in illicit enterprises themselves. For example, in 2005, in La Palmilla (Málaga), a police agent was detained, suspected of being involved in the small-scale trafficking of drugs¹⁶⁴ and, in 2006, a member of the Local Police, working in Málaga, was arrested for being part of a cocaine trafficking network that was operating in Málaga, Madrid and Valencia¹⁶⁵. Again, these examples of corruption and inappropriate behaviour on the part of state officials in this region highlight weaknesses that could be exploited by 'organised' criminals. Even if these examples are atypical or infrequent, it is clear (as some of the interview sources highlighted) that those working in the police forces and in the judicial and legal systems can be tempted by bribes as much as those employed in local politics¹⁶⁶, which creates a situation that can only be beneficial to criminals engaged in illicit enterprise.

Furthermore, although one of the interview sources believed that incidences of corruption in Spain were more common 'in local areas'¹⁶⁷, in addition to the examples of political corruption discussed earlier in this chapter, we can find other examples of corruption in the Madrid region¹⁶⁸. Indeed, for a relatively recent example of police corruption, we could look to the town of Coslada (east of the city of Madrid). In May 2008, 26 agents from the Coslada Local Police force, including the head of the force, Ginés Jiménez, were arrested in what one publication called 'the largest anti-corruption inquiry to take place inside the Spanish police force'¹⁶⁹. It was alleged that the law enforcement officials arrested during the so-called *Operación Bloque* acted like 'a mafia'¹⁷⁰, terrorising residents by extorting businesses, fabricating cases against people (and then agreeing to drop the charges in return for payment), obtaining free services from prostitutes by using threats and blackmail, and bringing in women from Eastern Europe to work in the sex trade industry¹⁷¹. As such, they were accused of crimes involving (amongst other things) coercion, threats, injuries, illicit association, sexual abuse, fraud, the theft of money, and

Graham Keeley, 'Spanish police charged with bribery and embezzlement in Costa del Crime', *guardian.co.uk*, 17/03/08, <http://www.guardian.co.uk/world/2008/mar/17/spain> [accessed 07/07/08].

¹⁶⁴ See, for example, 'Un policía traficante', *20 minutos (Málaga)*, 02/12/05, p.3 and 'Detienen a un policía en una operación contra el tráfico de drogas en La Palmilla', *Qué (Málaga)*, 02/12/05, p. 15.

¹⁶⁵ See, for example, 'Detenido un policía local de Málaga que integraba una red de tráfico de cocaína', *Málaga hoy*, 29/11/06, p. 18.

¹⁶⁶ Interviews P2 and P4.

¹⁶⁷ Interview C2.

¹⁶⁸ Indeed, the professional interviewed in interview P2 and the respondent of questionnaire QD, for example, alluded to cases of corruption in the Madrid region.

¹⁶⁹ Marty Delfin, 'Fear in a small town', *In Madrid*, Vol. 13, Issue 6, June 2008, p. 10.

¹⁷⁰ See *ibid.* See also F. Javier Barroso, 'La Comunidad carece de indicios para expedientar a Coslada', *El País (Madrid)*, 22/05/08, p. 5.

¹⁷¹ See Delfin, *op. cit.*

illegal levies¹⁷². Although, on the face of it, this case would not appear to be directly related to 'organised crime' (however, some possible links will be discussed below), examples like this show that some law enforcement officers are willing to abuse their position, engage in improper behaviour, and act against citizens' interests, which provides a favourable environment generally for criminals who seek to exploit such circumstances to further their activities. Moreover, there is also evidence that some law enforcement officers in the Madrid region are involved in behaviour that does directly facilitate illicit enterprise. Recent reports from the Bureau for International Narcotics and Law Enforcement Affairs (of the United States Department of State), for example, point to some cases involving senior police officials, such as the arrest, in October 2007, of the *Jefe de Estupefacientes* (Chief of Narcotics) of Móstoles Police Station (southwest of central Madrid), who was accused of drug trafficking¹⁷³, or the 2008 arrests of the Chief of Police in El Molar and two Civil Guards in Guadalix de la Sierra (both north of the city of Madrid) in an operation to combat drug trafficking in the Madrid region, and the arrest of a police Deputy Inspector in a case involving the dismantling of a drug dealing and illegal immigration network that operated out of Barajas airport¹⁷⁴. Although it is claimed that these are 'isolated cases'¹⁷⁵, they serve to highlight that explicit 'organised crime'-related police corruption, and even the involvement of police officers in criminal activities, occurs in Madrid, which directly serves to facilitate illicit enterprise in the region. Furthermore, a 2010 report by the Center for the Study of Democracy suggests that the large scale scandals, such as the one in Coslada, 'are indicative of systemic problems rather than "rotten apples"¹⁷⁶.

¹⁷² See, for example, Barroso, 'La Comunidad carece de indicios para expedientar a Coslada', *op. cit.* and P. Poveda, 'La Audiencia confirma la prisión para cuatro policías de Coslada', *La Razón: Mucho Madrid*, 18/07/08, p. 44. For further details of this operation, see also, for example, Amaya Izquierdo, 'Los vecinos de Coslada arremeten contra todos sus alcaldes', *El País (Madrid)*, 03/06/08, p. 1; Marta Palacio, 'Una veintena de pruebas vinculan al alcalde con la trama de Coslada', *La Razón: Mucho Madrid*, 25/06/08, p. 41; and Amaya Izquierdo, 'Coslada no halla culpables en el 'caso Bloque', pero releva a un edil', *elpais.com*, 14/01/09,

http://www.elpais.com/articulo/madrid/Coslada/halla/culpables/caso/Bloque/releva/edil/elpepiespmad/20090114elpmad_5/Tes [accessed 19/01/09].

¹⁷³ See United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *2008 International Narcotics Control Strategic Report, Volume I: Drug and Chemical Control*, March 2008, p. 505, <http://www.state.gov/documents/organization/100820.pdf>, [accessed 19/09/08].

¹⁷⁴ See United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *2009 International Narcotics Control Strategy Report, Volume I: Drug and Chemical Control*, March 2009, p. 535, <http://www.state.gov/documents/organization/120054.pdf>, [accessed 04/03/09]. For another example of a case involving police officers from Madrid collaborating with drug traffickers, see, for example, J. Duva and F. J. Barroso, 'La muerte a tiros de un policía destapa un grupo de agentes corruptos', *El País*, 09/01/05, p. 26 and Luis Gómez, 'Delincuentes con placa', *El País*, 16/01/05, p. 28.

¹⁷⁵ United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *2008 International Narcotics Control Strategy Report, Volume I: Drug and Chemical Control*, *op. cit.*, p. 505 and United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, *2009 International Narcotics Control Strategy Report, Volume I: Drug and Chemical Control*, *op. cit.*, p. 535.

¹⁷⁶ Center for the Study of Democracy (CSD), *Examining the Links between Organised Crime and Corruption*, CSD/European Commission, 2010, p. 83, <http://ec.europa.eu/home->

Furthermore, some Spanish press reports have made allegations which link Operations *Bloque* and *Guateque* (discussed earlier in this chapter) directly with 'organised crime', and which show how some of those implicated in these cases have been linked to members of various criminal groups. For example, in May 2008, some press reports not only linked those implicated in *Operación Bloque* with a Romanian 'mafia' involved in prostitution, but also implied that Ginés Jiménez, the alleged corrupt head of the Coslada Local Police force, had been providing 'cover' to the Bulgarian and Romanian criminal groups that were supposedly supplying security (doormen) to some of the nightclubs in the capital (several of which were also the focus of the investigations in *Operación Guateque*)¹⁷⁷. Furthermore, several press reports have claimed that the murder of the Romanian nightclub doorman (known as 'Cata') in a settling of scores between criminal gangs (discussed in Chapter 2) reveals more than the existence of a battle for the control of Madrid's nightclub security business. These reports, for example, refer to the investigations of a Civil Guard unit, which constituted a separate part of the *Operación Guateque* case (however, no charges were brought as result of these investigations and this part of the case was discontinued). During these investigations, the Civil Guard tapped the telephone of Acisclo Fernández, who was the owner of one of the premises investigated in the *Guateque* case and the son of Joaquín Fernández de Castro (former head of Environmental Assessment in Madrid's City Hall) who was charged in the case and imprisoned. The investigations revealed connections between Acisclo Fernández and a Colombian, known as 'Lauro', who was allegedly involved in cocaine trafficking. The tapped telephone conversations also revealed links between 'Lauro' and 'Ivo the Bulgarian', who was, supposedly, the leader of one of the 'mafias' that controlled the nightclub security business, and for whom 'Cata' worked at the time of his murder. Indeed, 'Cata', who was linked to some of those implicated in *Operación Bloque*, was present at Ivo's wedding in April 2008, as was the judge Carlos Nogales. Nogales was investigated during *Operación Bloque* and charged with the crime of coercion against a witness (although the case was later closed). Additionally, Ivo's rival gang in the nightclub security business, 'Los Miami' (the gang thought to be behind the shooting of 'Cata'), also appears in these reports. The head of this gang shared a lawyer with 'Lauro', the Colombian. The lawyer was murdered in

[affairs/doc_centre/crime/docs/study_on_links_between_organised_crime_and_corruption_en.pdf](#) [accessed 10/04/11].

¹⁷⁷ See, for example, Europa Press, 'Ginés abastecía de porteros a las discotecas investigadas en la "operación Guateque', *elmundo.es*, 27/05/08, <http://www.elmundo.es/elmundo/2008/05/27/madrid/1211909380.html> [accessed 28/03/09].

2005 and both were suspected of committing this crime¹⁷⁸. If these allegations by the press have any real foundation, they are particularly perturbing because they further reveal a web of illicit associations involving politicians, judges, police officials and criminals, which highlights how some of the public and state institutions in Spain are open to exploitation by those involved in illicit enterprise.

In sum, the examples given in this chapter show how corruption in Spain can, and does in some cases, directly facilitate illicit enterprise and give protection to the criminals involved in it. Even when corruption is not directly related to illicit enterprise, the presence of corruption in an institution or system reveals certain inefficiencies in that institution or system, such as a lack of transparency and accountability and weak governance and control, which criminal groups will inevitably abuse if they can. It is therefore argued that the presence of corruption in Spain, of the forms and types discussed in this chapter, reveals vulnerabilities in the arenas (and the institutions and systems) in which it takes place. These vulnerabilities, together with others that will be discussed in the next chapter, facilitate the undertaking of illicit enterprise in Spain and thus support the hypothesis advanced in this thesis.

¹⁷⁸ For full details, see, for example, D. Verdú and Á. De Cózar, 'Cata destapa la noche más turbia', *elpais.com*, 14/01/09, http://www.elpais.com/articulo/madrid/Cata/destapa/noche/turbia/elpepiespmad/20090114elpmad_2/Te s [accessed 19/01/09]. See also Melchor Sáiz-Pardo and Colpisa, 'Las mafias oscurecen la noche madrileña', *elcorreodigital*, <http://www.elcorreodigital.com/vizcaya/20090119/pvasco-espana/mafias-oscorecen-noche-madrilena-20090119.html> [accessed 28/03/09].

Chapter 5

The Response to Illicit Enterprise in Spain

The last chapter showed how incidences of corruption revealed weaknesses and vulnerabilities in the political, judicial and law enforcement spheres in Spain, which are exploited by criminals, and it argued that illicit enterprise in the country is thus facilitated by corruption. However, an understanding of why illicit enterprise occurs in Spain may also be found by examining how the state and its institutions respond to this kind of criminal activity. This chapter will argue that, when examining how the Spanish state responds to illicit enterprise, a number of clear problems can be identified. These are manifest in the level of political priority and the degree of attention given to illicit enterprise and its associated activities by the Spanish authorities, as well as in some apparent weaknesses in the law enforcement, legal and judicial spheres which, again, are open to manipulation by criminal groups. Further vulnerabilities that support the hypothesis of this thesis, therefore, will be identified in this chapter.

Lack of political attention/political will

Gómez-Céspedes and Stangeland open their 2004 chapter¹ (as noted in the Introduction: one of the very few accounts written in the English language on 'organised crime' in Spain) with a story about the President of Spain's 2001 Address to the Nation, which focussed on the topic of justice and public safety. In this address, the President at the time, José María Aznar, discussed numerous issues (the increase in the rates of crime (especially property crime), immigration, terrorism, particular circumstances in the Basque country, the economy, the general strike happening across the country and the relationship with the United States), yet he did not touch upon the subject of 'organised crime'. This provides a very telling account about the Spanish state's attitude to the illicit enterprise and 'organised crime' affecting the country. As Gómez-Céspedes and Stangeland state:

It was rather unexpected for anyone looking into serious and organised crime in Spain that the President of the country excluded any reference to the scale and nature of these phenomena.²

¹ Alejandra Gómez-Céspedes and Per Stangeland, 'Spain: The Flourishing Illegal Drug Haven in Europe' in Cyrille Fijnaut and Letizia Paoli (eds.), *Organised Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*, Dordrecht, Springer, 2004, pp. 387-412.

² *Ibid.*, p. 387.

Indeed, it is the argument of this thesis that there has been (and may still be) a lack of political attention and priority given to the problem of illicit enterprise in Spain, and/or a relative lack of political will to fight it.

When specifically asked their opinion about this particular matter, the interview and questionnaire respondents expressed mixed opinions. On the one hand, some respondents expressed a belief that the Spanish state recognised, and gave importance to, the problem of illicit enterprise (or what they referred to as 'organised crime'). Four of the questionnaire respondents (two journalists and two professionals from the law enforcement fields), for example, indicated disagreement with the statement: 'there is a lack of political will to fight organised crime'³. Three of these same respondents (plus one other) also disagreed with the statement: 'organised crime does not have importance on the national political agenda'⁴ and one of the interview sources (a high ranking police officer) expressly stated that this matter did have importance on the political agenda⁵. Furthermore, another interview respondent from the law enforcement field claimed that politicians in Spain took the problem 'seriously'⁶. Interestingly, two of the interview sources (both police officials) appeared to suggest that the strength of the state response to illicit enterprise might depend on which political party was in power (one saying that 'it depends on the left or right wing'⁷ and the other emphasising that the *current* government gives the problems associated with illicit enterprise 'a high priority'⁸). On the other hand, however, the majority (nine) of the questionnaire respondents agreed or strongly agreed with the statement: 'organised crime does not have importance on the national political agenda'⁹ and six respondents also indicated some level of agreement with the statement: 'there is a lack of political will to fight organised crime'¹⁰. Moreover, two of the interview respondents (a police officer and a journalist) suggested that government officials know that 'organised crime' or illicit enterprise is a problem but they do not admit it because 'it's not politically correct to say so'¹¹ and 'it is against their pride [...] it is hard for them to admit incompetence'¹². A further interview respondent (a lawyer and former regional parliamentarian) simply claimed that the Spanish government was 'not interested' in these

³ Questionnaires QD, QF, QL and QM.

⁴ Questionnaire QE, QF, QL and QM.

⁵ Interview P8.

⁶ Interview P3.

⁷ Interview P2.

⁸ Interview P12.

⁹ Questionnaires QA, QB, QC, QD, QG, QH, QI, QJ and QK.

¹⁰ Questionnaires QC, QE, QH, QI, QJ and QK.

¹¹ Interview P13.

¹² Interview J8.

problems¹³. As discussed in Chapter 1 and elsewhere in this thesis, there may be several reasons why the opinions of the questionnaire and interview respondents differ. On this particular matter, different views are held within the same professional field (for example within law enforcement), so it may simply be the case that respondents are expressing their personal opinion (rather than any 'official line').

In any case, a look at some of the wider source material shows apparent support for the latter view; that illicit enterprise is given little political priority or attention. Certainly, in recent years, the state and its institutions have faced some severe criticism from the press in relation to the problems associated with corruption and illicit enterprise in the Costa del Sol region, for example. For instance, a damning newspaper article about corruption and money laundering in Marbella, published in 2003, asked: '[...] why has no one put a stop to this debauchery? Where are the authorities, the judges, the police ...?'¹⁴. In response, Carlos Castresana (then an anti-corruption Public Prosecutor) is quoted as saying:

One can say that the State does not reach Marbella. And if this is not remedied soon, [Marbella] will be converted into an island, into a territory of illegality where people from the entire world will come to obtain gigantic capital gains and pay commissions for everything. [...] [Marbella] is a powder keg, a territory without law, like the Wild West. It is as if a single guard were watching over an enormous arms depot. The number of lawsuits is much higher than a town of 100,000 inhabitants should have.¹⁵

Castresana even likens Marbella to Sicily:

And there exists an additional problem: the judge that takes this seriously [in Marbella] is, as Falcone said, a servant of the State in a land of infidels.¹⁶

Indeed, the article uses the example of the judge Santiago Torres, who prosecuted the likes of Jesús Gil (discussed in Chapter 4) and who, as a result of threats and denigrations, lived 'through scenes more appropriate to Sicily than a town of Andalucía', before asking for a transfer to Madrid¹⁷. Despite Castresana's warnings, however, the Spanish state and the regional government have continued to be criticised by the press for their ineffectiveness in this area. A newspaper editorial, for example, published after the third phase of the *Malaya* investigations in 2006, stated:

[...] what continues to cause the greatest surprise is that the successive Governments of the Nation and the Government of Andalucía did not dare, during

¹³ Interview I.2.

¹⁴ José María Irujo and Pablo Ordaz, 'Marbella, el lado oscuro del paraíso', *El País: Domingo*, 13/07/03, p. 4 (my translation).

¹⁵ *Ibid.*, quoting Carlos Castresana (my translation).

¹⁶ *Ibid.*, quoting Carlos Castresana (my translation). Giovanni Falcone was the Sicilian judge, who fought tirelessly against the Sicilian mafia, which murdered him in 1992. See, for example, Howard Abadinsky, *Organized Crime*, 7th edition, Wadsworth/Thomson Learning, Belmont, CA, 2003, pp. 155-156.

¹⁷ See Irujo and Ordaz, *op. cit.*, p. 4 (my translation).

all of these years, to intervene in such a paradise of Spanish and international crime.¹⁸

Likewise (and perhaps not surprisingly), opposition political parties have also been critical of the national and regional state response to the criminal activities undertaken in the Costa del Sol. The 2008 report of the political party *Izquierda Unida* (IU) (United Left), for example, criticises the governments of Zapatero and Chaves¹⁹ for not making enough progress in the fight against 'organised crime' by, for example, not granting enough resources or legal instruments to the judiciary and to the security bodies. Additionally, the report accuses the state of not adopting any serious initiatives in relation to Gibraltar and other tax havens and, in the field of money laundering, it claims that the state's failure is categorical and that the government of Andalucía is 'lifeless'²⁰.

What may explain the Spanish state's apparent lack of attention to illicit enterprise is that other issues, such as (illegal) immigration²¹ and, particularly, terrorism, seem all-consuming in the political and public debate in Spain, which is not surprising given the fact that Spain has suffered four decades of violence from the Basque terrorist group ETA (*Euzkadi ta Askatasuna*) (Basque Homeland and Freedom) as well as the major terrorist attack on 11 March 2004 (when Islamist terrorists killed 191 people, and injured many more, in four train attacks in Madrid). Terrorism has thus had a far stronger impact in Spain than 'organised crime' or illicit enterprise (especially in terms of casualties of innocent people)²². Although one of the interview sources believed that terrorism and 'organised crime' were given the same level of political priority in Spain²³, five of the interview respondents claimed that terrorism was seen as the top political priority in the country²⁴. If that is the case, the Spanish state's preoccupation with matters other than illicit enterprise may well be one of the very factors that has allowed it proliferate to the degree that it has. Indeed, according to Bratton, one 'unintended consequence' of the reaction to 9/11 in the USA was an expansion of organised crime there:

¹⁸ 'Editorial: Marbella, un pozo de corrupción sin fondo', *El Mundo*, 15/11/06, p. 3 (my translation).

¹⁹ Manuel Chaves González was the socialist president of the *Junta* (Government) of Andalucía for 19 years (from 1990 until April 2009). For his biography, see Junta de Andalucía, 'La Junta: Presidente: Biografía', <http://www.juntadeandalucia.es/organismos/presidente/biografia.html> [accessed 30/11/08].

²⁰ Izquierda Unida-Los Verdes-Convocatoria por Andalucía (IU-LV-CA), *Aproximación al Crimen Organizado y la Actividad Mafiosa en la Costa del Sol*, II Informe: El Crimen Organizado en la Costa del Sol, Observatorio del Crimen Organizado de IU-LV-CA y Oficina de Comunicación de IU-LA-CA, Boletín no. 2, Febrero de 2008, <http://iumalaga2008.org/files/II%20Informe%20Crimen%20Organizado1.pdf> [accessed 06/10/08].

²¹ The professional interviewed in interview P1, for example, claimed that immigration was the first priority for the public and, therefore, the politicians in Spain. A similar point was also raised during interview P11.

²² 'Annex 3: Case Study – Spain' in Center for the Study of Democracy (CSD), *Examining the Links between Organised Crime and Corruption*, CSD/European Commission, 2010, p. 186, http://ec.europa.eu/home-affairs/doc_centre/crime/docs/study_on_links_between_organised_crime_and_corruption_en.pdf [accessed 10/04/11].

²³ Interview F2.

²⁴ Interviews P4, P14, P15, P16 and J2.

Unwittingly, as law enforcement reacted to the aftermath of 9/11, and the United States' federal dollars and priorities shifted, organized crime groups were able to exploit the reduction in law enforcement attention and moved aggressively to establish new "trade routes" and alliances.²⁵

Unlike in the USA, however, in Spain, the attention and the priority given to 'organised crime' or illicit enterprise may never have been there in the first place and, if a lack of state interest correlates to a lack of resources being assigned to the institutions involved in curbing this kind of criminal activity, this could highlight some further inefficiencies and vulnerabilities that would serve to facilitate illicit enterprise in Spain.

In this regard, a 2001 study by Mapelli Caffarena *et al* did indeed corroborate the lack of government interest in the anti-organised crime agenda in Spain in terms of the lack of human and material resources allocated to anti-organised crime units in the country²⁶. More generally, a lack of resources can be evidenced in all of the case study regions. In the Costa del Sol, for example, some of the questionnaire respondents claimed that 'organised crime' does not hold much 'importance' on the local political agenda²⁷ and thus the local budgets for fighting the types of crime that occur there are 'inadequate'²⁸. Díez Ripollés and Gómez-Céspedes argue that the resources allocated to the security forces for fighting economic crime in this area are usually smaller than those allocated for combating more common crimes: customarily, more emphasis is put into the areas that are most likely to cause material or physical damage, or which shake public opinion²⁹. Furthermore, back in 1996, a newspaper article, published in *The Independent*, informed us that:

Police complain that the contest [between the police and criminal groups in the Costa del Sol] is as unequal as that between David and Goliath. They say they are hopelessly outsmarted by 200 criminal gangs with bottomless purses, yachts and powerful vehicles, while their investigations are stymied by something as mundane as the lack of a translator.³⁰

It seems that little has changed since then. Indeed, the IU's 2008 report claimed that there were still only seven interpreters for the whole of the Costa del Sol and the province of Málaga³¹, and there have been regular complaints about the lack of police resources

²⁵ William J. Bratton, 'The Unintended Consequences of September 11th', *Poliang*, Vol. 1, No. 1, 2007, p. 21.

²⁶ Gómez-Céspedes and Stangeland, *op. cit.*, p. 388, citing B. Mapelli Caffarena, M. González Cano and T. Aguado Correa, *Estudios sobre delincuencia organizada. Medios, instrumentos y estrategias de la investigación policial*, Seville, Mergablum, 2001. See also Lydia Garrido, 'La costa del delito', *El País: Domingo*, 20/10/02, p. 6. A similar point was also raised during interviews J2 and M1.

²⁷ Questionnaires QH, QI, QJ and QK.

²⁸ Questionnaires QH, QJ and QK.

²⁹ See, for example, José Luis Díez Ripollés and Alejandra Gómez-Céspedes, 'La corrupción urbanística: Estrategias de análisis', *Revista Española de Investigación Criminológica*, Artículo 5, No. 6, 2008, p. 26, [http://www.criminologia.net/pdf/reic/REICA5N6\(2008\).pdf](http://www.criminologia.net/pdf/reic/REICA5N6(2008).pdf) [accessed 11/08/08].

³⁰ Elizabeth Nash, 'Costa del Sol's image is tarnished by lead', *The Independent*, 15/10/96, http://findarticles.com/p/articles/mi_qn-4158/is_/ai_n14086266 [accessed 07/07/08].

³¹ IU-LV-CA, *op. cit.*, p. 24.

generally in the province (which typically arise after an episode of 'organised crime'-related violence). For example, in 2004, a councillor from Marbella's Town Hall blamed the central government for the violence occurring in the municipality, remarking that, in Marbella, it was not 'normal' to have 80 personnel from the National Police with only three vehicles, and also that the Local Police was not provided with the infrastructure to fight these problems³². Also, more recently, in October 2008 (after the shootings mentioned in Chapter 2), the Marbella town hall, the opposition parties and the Centre for Tourism Initiatives all called for more police on the streets of Marbella (as well as more cooperation between the Local Police and the National Police), in order to remedy a situation that was 'insufficient', especially given the increase in the town's population in recent years³³. Even the central government's sub-delegate in Málaga has admitted that the number of police personnel continues to be inadequate for the criminal and demographic characteristics of the province (despite a 20 per cent increase in personnel since the start of the current government's term of office)³⁴. Some of the questionnaire respondents (including a member of the Local Police and a Civil Guard) identified a lack of police resources in the Costa del Sol too. These included a lack of human resources (such as translators and administrative personnel)³⁵, a lack of technological resources and/or other equipment (such as vehicles, arms, and so on)³⁶ and a lack of economic resources³⁷, as well as a lack of professional personnel in relation to 'organised crime', in terms of specialised training, knowledge and/or experience³⁸. This lack of resources also appears to be reflected in the judicial system. In 2008, the Chief Public Prosecutor of the *Tribunal Superior de Justicia de Andalucía* (TSJA) (Supreme Court of Justice of Andalucía), Jesús García Calderón, asked the government of Andalucía to provide the judicial system with more human and information technology resources, and he underlined the need to organise and coordinate

³² See 'Un muerto y un herido en un ajuste de cuentas por drogas en Marbella', *El País*, 04/01/04, p. 27, quoting Carlos Fernández, then councillor for Citizen Security in the Marbella Town Hall.

³³ See M. J. Cruzado, 'Latest shooting in Marbella sparks calls for more police patrolling the streets', *surinenglish.com*, 05/10/08, <http://www.surinenglish.com/20081003/news/costasol-malaga/latest-shooting-marbella-sparks-200810031433.html> [accessed 06/10/08]. The respondents of questionnaires QH, QJ and QK also agreed that there was a lack of cooperation either between different police squads, or between different police forces, or both.

³⁴ See Gema Martínez 'El Gobierno admite que Málaga necesita más policías por sus características delictivas', *sur.es*, 03/10/07, <http://www.diariosur.es/20071003/malaga/gobierno-admite-malaga-necesita-20071003.html> [accessed 11/08/08], citing Hilario López Luna, the Spanish Government's sub-delegate in Málaga.

³⁵ Questionnaires QG, QH, QI, QJ and QK.

³⁶ Questionnaires QH, QJ and QK.

³⁷ Questionnaires QH, QJ and QK.

³⁸ Questionnaires QG, QH, QI, QJ and QK.

the multidisciplinary teams of investigation that tackle 'organised crime'³⁹ (this issue will be discussed later in this chapter).

The judicial system and the police forces appear to suffer a lack of resources in Madrid too. For example, it is claimed that there is a lack of resources in the penal courts (particularly, in terms of human resources and computerisation)⁴⁰ and, despite the apparent efforts of the Spanish government since 2004 to increase police resources and personnel in the Madrid region⁴¹, there still remain problems in this sphere. For example, in June 2008, it was reported that the National Police in the Community of Madrid suffered a deficit of 1,327 agents (that is, 11.6 per cent of staff vacancies were unfilled)⁴². Apparently, low salaries and the dangerous and high-risk nature of police work in Madrid mean that many police officers, given the choice, would prefer to work elsewhere⁴³. As a result, police officers from other cities have to be brought in to support the Madrid personnel⁴⁴.

Likewise, in Galicia, the bodies responsible for tackling illicit enterprise in the region also appear to suffer a lack of resources (especially if these resources are compared with those of the smuggling and trafficking clans) – although it is interesting to compare the responses of two of the questionnaire respondents on this matter (both high-ranking professionals employed in the law enforcement field in Galicia): one respondent indicated that there was a lack of specialised professional personnel, trained in 'organised crime'-related matters in the region, as well as a lack of personnel generally⁴⁵, whereas the other disagreed with this view and identified only a lack of technological resources⁴⁶. Nevertheless, other sources have emphasised the need for more resources in the fight against drug trafficking in the region. For example, in a press release issued by the national

³⁹ See 'El fiscal del TSJA alerta ante las "disfunciones y graves deficiencias" del sistema judicial', *abcdesevilla.es*, 05/09/08, http://www.sevilla.abc.es/hemeroteca/historico-05-09-2008/sevilla/Andalucia/el-fiscal-del-tsja-alerta-ante-las-disfunciones-y-graves-deficiencias-del-sistema-judicial_804131054356.html [accessed 10/10/08].

⁴⁰ See, for example, 'Atasco record en los juzgados de lo Penal', *Metro (Madrid)*, 07/05/08, p. 5.

⁴¹ In January 2009, the Interior Minister, Alfredo Pérez Rubalcaba, stressed the efforts made by his Government, since 2004, to increase the police personnel in Madrid (in order to recoup the number of officers that had declined in previous years). He is quoted as saying that police staff in the Community of Madrid 'had increased, increased and increased [...]'. See, for example, Agencias, 'El crimen organizado, primera prioridad de la Policía en Madrid', *elpais.com*, 13/01/09, http://www.elpais.com/articulo/espana/crimen/organizado/primera/prioridad/Policia/Madrid/elpepucsp/20090113clpepunac_11/Tes [accessed 19/01/09], (my translation). For some further details and figures relating to this increase, see also, for example, F. Javier Barroso, 'Madrid recibe la mitad del total de los nuevos policías nacionales', *El País*, 14/11/06, p. 37. It would appear, also, that efforts have been made to furnish Madrid's police officers with more modern equipment. For example, in July 2007, it was reported that the total number of police vehicles in Madrid would increase by 24.54 per cent through the addition of 1,010 new vehicles to the regional fleet. See, for example, 'Madrid tiene 1.010 coches policiales más', *Metro (Madrid)*, 17/07/07, p. 3 and Pablo Herraiz, 'Mil patrullas "llave en mano"', *El Mundo: M2*, 17/07/07, p. 5.

⁴² See, for example, Diana Valdecantos, 'Madrid tendrá mil policías menos', *La Razón: Mucho Madrid*, 16/06/08, p. 39.

⁴³ *Ibid.*

⁴⁴ These officers, apparently, receive generous remunerations for this work. See *ibid.*

⁴⁵ Questionnaire QF.

⁴⁶ Questionnaire QM.

union CIG (Confederación Intersindical Galega) (Galician Intersindical Confederation) in August 2008, it was claimed that the vessels and boats in three of the six maritime bases of Galicia's *Servicio de Vigilancia Aduanera* (SVA) (Customs Surveillance Service) were more than 24 years old; the helicopter that covers the north of the region only had a flight range of two hours; and, at the port of Vigo, the scanner for prohibited merchandise entrance control, which had been installed for one year, had not entered into operation⁴⁷. CIG therefore argued that if human and material resources were increased, Galicia's SVA could multiply ten-fold the seizures of drugs and *planeadoras* in the region⁴⁸. Significantly, CIG even claimed that a lack of resources correlated with the recent reappearance of Galicia's coasts as a principal entry point for drugs (as discussed in Chapter 2) and the reason why traffickers were, once again, using the region as an access route for getting drugs into the rest of Europe⁴⁹. In this respect, one of CIG's particular complaints was that officials 'accommodated in offices in Madrid' were 'absolutely ignorant' of the reality occurring on Galicia's coasts⁵⁰, which, perhaps, is indicative of how Galicia is treated generally by the central Spanish state.

Several sources have documented the estranged relationship between Galicia and the central Spanish state. Physically, Galicia is set apart from the rest of Spain by the natural barrier of the Cordillera Cantábrica mountain range⁵¹. This has made building an infrastructure very difficult, and some would argue that this 'difficult connection' with the centre of Spain is perhaps the main cause of the region's historic delay (economically)⁵². Yet, there is a certain remoteness that is felt in other ways too. For their part, it appears that the inhabitants of Galicia possess an important 'indifference' to the institutions of the central state and the government⁵³ and, given Galicia's history of emigration, it is argued that, in the most remote village, there is a closeness, or a memory, towards places such as Havana, Buenos Aires, Río de Janeiro, and so on, that is not felt towards Madrid, which is seen as 'very distant'⁵⁴. Reciprocally, it would appear that the rest of Spain has 'forgotten' this part of the country and Galicia has been described as being 'like a little island in

⁴⁷ See, for example, Elisa Lois; 'La policía refuerza la vigilancia en la costa para frenar la entrada de droga', *elpais.com*, 20/08/08, http://www.elpais.com/articulo/Galicia/policia/refuerza/vigilancia/costa/frenar/entrada/droga/elpepiatgal/20080820elpgal_6/Tes [accessed 20/08/08] and EFE, 'La CIG reclama más medios para poder multiplicar las aprehensiones de droga', *lavozdegalicia.es*, 20/08/08, <http://www.lavozdegalicia.es/galicia/2008/08/19/00031219144186411840992.htm> [accessed 20/08/08], quoting a press release by the Confederación Intersindical Galega (CIG) (released on 18/08/08).

⁴⁸ EFE, *op. cit.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.* (my translation).

⁵¹ Giles Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, London, Faber and Faber Limited, 2006, p. 370.

⁵² Marco Ezquerro, 'Avances en el reto de converger en desarrollo', *Cinco Días: Galicia*, 16/04/08, p. 2.

⁵³ See Fermín Bouza, 'El cansancio de ser gallego', *El País*, 05/06/05, p. 19.

⁵⁴ *Ibid.* (my translation).

Spain⁵⁵, or 'a colony, subordinate to the political dynamics of the Spanish state [...]'⁵⁶. Indeed, it has been forcefully argued that Galicia has not entered into the strategic priorities for the economic and territorial development of the Spanish state⁵⁷, and a survey carried out by Instituto Opina in 2005 found that 46.9 per cent of Galicia's inhabitants believed that the region was more poorly treated by the Spanish government than the other autonomous communities of Spain⁵⁸. Tremlett even relates how:

[...] other Spaniards looked down on Galicians for centuries. They were the country's cheap labourers. A strong back and an obedient attitude were their only virtues.⁵⁹

This remoteness and estrangement, from both Madrid and the rest of Spain, was seen by some sources as facilitating the criminal activities in Galicia⁶⁰ and, if this situation has resulted in a lack of resources and attention being given to the problem of illicit enterprise in the region (as may seem to be the case), it can only be seen as a serious shortcoming of the Spanish state in this regard.

Indeed, as we have seen, a lack of resources in the law enforcement and judicial spheres can be evidenced in all of the regions discussed above, and this appears to be the consequence of a lack of government attention or priority being given to illicit enterprise. Whilst it remains an unfortunate reality that those engaged in this kind of criminal activity will always have more resources than governments, it is clear that the state could do more in this regard. If the bodies responsible for fighting illicit enterprise lack resources, this evidently hampers their effectiveness, which creates a beneficial environment for illicit enterprise.

A further consequence of any apparent lack of government interest in 'organised crime' and illicit enterprise may also be a lack of policy formation in this area. Although anti-organised crime operations have sometimes been included as a priority in declarations made by the Ministry of the Interior⁶¹, De la Cuesta argues that it is only recently that 'organised crime' has appeared as an independent topic in the Ministry's official reports and plans (and, then, official information is aimed more at presenting quantitative data than at explaining the priorities, aims and objectives of official policies for crime reduction or

⁵⁵ Interview J2.

⁵⁶ See Sharif Gemie, *A Concise History of Galicia*, Cardiff, University of Wales Press, 2006, p. 131.

⁵⁷ See Camilo Nogueira, 'La hermana atlántica', *El País*, 05/06/05, p. 19.

⁵⁸ 'El 46,9% cree que Galicia es peor tratada que otras comunidades', *El País*, 08/05/05, p. 19, citing the results of a survey carried out by Instituto Opina (my translation).

⁵⁹ Tremlett, *op. cit.*, p. 387.

⁶⁰ Interview J2 and questionnaire QL.

⁶¹ See, for example, '297 detenidos en una operación contra el crimen organizado', *El País*, 10/03/06, p. 29.

prevention)⁶². It has been argued, however, that this recent increase in the attention given to 'organised crime' on the part of the Spanish state may simply be the result of international and European pressure in this field⁶³ rather than the representation of a true concern, whilst the fight against terrorism (in terms of the resources and attention given to it) continues to take prevalence, as it traditionally has done⁶⁴. It may also be the case that the public and media reaction to the recent scandals over urban corruption, or the reaction to 'organised crime'-related violence, has stimulated government activity⁶⁵ (and this will be discussed further subsequently).

Yet, whatever the cause, it is clear that some measures to help combat illicit enterprise and corruption have been put in place in recent years. Generally, for example, specialist prosecutors have been deployed throughout Spain and there has been an increase in the number of agents in the Judicial Police and of personnel in both the National Police and Civil Guard (the Ministry of the Interior, for example, has recently claimed that the number of police 'troops' active against 'organised crime' has nearly doubled in the five years between 2004 and 2009)⁶⁶. Furthermore, specialised anti-organised crime police units and teams have been created. These include UDYCO (*Unidad de Drogas y Crimen Organizado*) (Drugs and Organised Crime Unit), and also GRECO (*Grupos de Respuesta Especial para el Crimen Organizado*) (Special Response Groups for Organised Crime) and UDEF (*Unidad de Delincuencia Económica y Fiscal*) (Unit of Economic and Fiscal Crime) for the National Police and ECO (*Equipo Contra el Crimen Organizado*) (Team Against Organised Crime) for the Civil Guard. In the legal sphere, some significant legal and penal reforms have been implemented, such as changes to the Spanish Penal Codes, a hardening of punishments for 'organised-crime' related offences and the introduction of new intervention methods and administrative measures to prevent 'organised crime'⁶⁷. Some reforms have also been taken with regard to urban corruption. These include the creation of environment and urban-planning departments in every prosecutor's office (under the coordination of a prosecutor who acts as a delegate of the Attorney General) and the

⁶² José Luis de la Cuesta, 'Organised Crime Control Policies in Spain: A "Disorganised" Criminal Policy for "Organised" Crime' in Cyrille Fijnaut and Letizia Paoli (eds.), *Organised Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*, Dordrecht, Springer, 2004, p. 796.

⁶³ This point was argued during interview P2, for example.

⁶⁴ See De la Cuesta, *op. cit.*, pp. 795-796.

⁶⁵ See, for example, 'Annex 3: Case Study – Spain', *op. cit.*, pp. 186-187.

⁶⁶ See Gobierno de España (Ministerio del Interior (MIR)), *Comparencias lucha contra el crimen organizado en España*, Madrid, MIR, 02/11/10, http://www.interior.gob.es/DGRIS/Balances/Balance_2010/pdf/bal_crimen_organizado_noviembre_presentacion.pdf [accessed 30/04/11].

⁶⁷ See, for example, De la Cuesta, *op. cit.*

setting up of police units against town-planning crimes⁶⁸, as well as the passing of the 'Land Law' (Act 8/2007, 28 May) which:

[...] introduces substantial innovations into the Spanish town-planning system such as new land value assessment measures, more exacting requirements to change land classification, greater transparency in procedure, as well as a policy to fight the most serious conflicts of interests in those responsible for town-planning policy.⁶⁹

The very undertaking of the major operations discussed throughout this thesis (such as *Ballena Blanca*, *Malaya*, *Hidalgo* and *Astapa*), and the seizures and arrests that were made as part of these, as well as police successes in terms of hashish and cocaine seizures, and so on, are testament to the success of some of these initiatives. Indeed, the Ministry of the Interior reports that, between 2004 and 2009, Spanish police broke up 1,892 'organised crime' groups and detained 28,792 persons associated with 'organised crime' and, between 2007 and 2009, seized almost 60 tons of cocaine, 365 tons of hashish, 732 kilograms of heroin and more than 665,000 doses of ecstasy, as well as goods worth more than 400 million euros⁷⁰. Thus, it would be unfair to accuse the state of being entirely inactive or ineffective in relation to illicit enterprise and corruption. Indeed, an increase in state attention can be seen in all of the case study regions. In the Costa del Sol, for example, it would appear that the increasing number of scandals there has stimulated public policy in this area and more, and better, resources have been given to institutions in order to more effectively fight these types of crime⁷¹. Anti-corruption prosecutors have been appointed in Málaga, and the Costa del Sol was one of the first areas to be given the specialised police units, such as UDYCO and GRECO⁷². It must also be recognised that the autonomous administration of Andalucía and the TSJA have, little by little, started to act against the kinds of irregular and corrupt behaviours that so frequently occur in this area by, for example, challenging illegal building licences and passing sentences on those responsible for these infractions⁷³ and, in October 2005, the government of Andalucía passed a new law, allowing it to take the power of making planning decisions away from the town halls, in the case of serious irregularities, for a maximum of five years⁷⁴.

The spate of 'organised crime'-related violence that occurred in the capital in January 2009 (discussed in Chapter 2), and the public concern that this generated, has also

⁶⁸ See, for example, Fernando Jiménez, 'Building Boom and Political Corruption in Spain', *South European Society and Politics*, Vol. 14, No. 3, 2009, p. 255-272.

⁶⁹ *Ibid.*, p. 269, citing M. Vitoria, 'Las nuevas medidas al servicio de la transparencia, la participación y el control en el gobierno local en la Ley del Suelo', *Ciudad y Territorio. Estudios Territoriales*, Vol. 29, Nos. 152-153, pp. 1-21.

⁷⁰ Gobierno de España (Ministerio del Interior (MIR)), *op. cit.*

⁷¹ Díez Ripollés and Gómez-Céspedes, *op. cit.*, p. 26.

⁷² See, for example, *ibid.*, pp. 26-27.

⁷³ On this point, see also *ibid.*, pp. 27-30.

⁷⁴ See, for example, 'Land laws', *Surv in English*, 28/10/05 – 03/11/05, p. 5.

had the effect of forcing political attention on to the problem of 'organised crime' and illicit enterprise in the Madrid region (for the time being, at least). At that time, Francisco Granados, (the regional government's Presidency, Justice and Home Affairs councillor) placed responsibility with the central government and called for an increase in material and human resources in the field of criminal investigations in order to tackle 'organised crime' in Madrid⁷⁵. Specifically, he argued that:

We all must act, but it is the Ministry of the Interior that has to put in place measures to ensure that these mafias disappear from our streets.⁷⁶

In response, Alfredo Pérez Rubalcaba, Spain's Interior Minister, reportedly announced his intention to increase police presence on the streets of Madrid, and he pledged to strengthen the state's economic efforts in security matters⁷⁷. Apparently, however, when asked by Granados to elaborate on the additional measures that the ministry was going put in place to fight 'organised crime', Rubalcaba could not give any specific details⁷⁸, and Granados accused the Interior Minister of being 'more concerned with statistics than with the labours of investigation'⁷⁹. Some of the police unions also claimed that Rubalcaba's announcement was 'demagogic'⁸⁰. Only time will tell whether any further initiatives will be implemented to address the problems associated with illicit enterprise in Madrid (or whether all this is merely an example of political squabbling). However, the recent attention that has seemingly been given to the problem does perhaps show that both the regional and national governments have now, at least, acknowledged the threat that this phenomenon poses in Madrid.

Furthermore, progress has been made in Galicia too. Many of Galicia's infamous drug barons have, eventually, faced justice and are now serving prison sentences. This is significant because it shows that these characters are not as untouchable as they once were

⁷⁵ See, for example, Agencias, *op. cit.* and EFE, 'Granados: "El crimen organizado se ha adueñado de Madrid"', *elpais.com*, 14/01/09, http://www.elpais.com/articulo/madrid/Granados/crimen/organizado/ha/aduenado/Madrid/elpepicspmad/20090114elpmad_1/Tes [accessed 19/01/09].

⁷⁶ *Ibid.*, quoting Francisco Granados, the *consejero de Presidencia, Justicia e Interior* (councillor of Presidency, Justice and Home Affairs) in Madrid's regional government (my translation).

⁷⁷ See, for example, Agencias, 'Madrid, una de las capitales europeas más seguras', *elpais.com*, 15/01/09, http://www.elpais.com/articulo/espana/Madrid/capitales/europeas/seguras/elpepuesp/20090115elpepunac_11/Tes [accessed 19/01/09].

⁷⁸ See, for example, "Las mafias actúan con impunidad", *elpais.com*, 15/01/09, http://www.elpais.com/articulo/madrid/mafias/actuan/impunidad/elpepicspmad/20090115elpmad_9/Tes [accessed 19/01/09].

⁷⁹ *Ibid.*, quoting Francisco Granados, the *consejero de Presidencia, Justicia e Interior* (councillor of Presidency, Justice and Home Affairs) in Madrid's regional government (my translation).

⁸⁰ *Ibid.*

(this will be discussed further below). As Carmen Avendaño Otero⁸¹ said, after the sentencing of Manuel Charlín Gama (the head of the Charlín clan⁸²) in 1999:

From when the major drug traffickers were untouchable here [in Galicia] to today, the situation has changed. Now they are rejected and they are starting to carry out sentences.⁸³

Moreover, in September 2008, the Anti-Drug Public Prosecutor of Pontevedra, Marcelo de Azcárraga Urteaga, pointed out that, in the preceding year, at least four organisations had been dismantled in Galicia and some key leaders, such as Rafael Bugallo Piñeiro⁸⁴, had been arrested⁸⁵. He attributes this success to the police forces being 'more prepared'⁸⁶. He also argued that the Public Prosecutor's office, the police and the Tax Agency have all doubled their human and material efforts in this area, with the addition of new specialised units such as GRECO, for example⁸⁷. One of the interview sources also singled out for praise Galicia's UDYCO, which, he claimed was 'very efficient' and which had seized some 'very important' quantities of drugs in the past few years⁸⁸. Manuel Ameijeiras, the central government's delegate in Galicia, has stated that such actions show that '[w]e are aware of our problem. We are not complacent'⁸⁹.

⁸¹ The President of Fundación Érguete-Integración, which will be discussed further below.

⁸² The Charlín clan will be discussed further below.

⁸³ Yanel, Agustín, 'La Audiencia condena a 20 años de cárcel a Manuel Charlín', *El Mundo*, 05/02/99, <http://www.elmundo.es/1999/02/05/sociedad/05N0062.html> [accessed 10/12/08], quoting Carmen Avendaño Otero, President of Fundación Érguete-Integración (my translation).

⁸⁴ Rafael Bugallo Piñeiro was arrested in August 2008, along with seven other people (including Fernando Prado Rey, a cousin of Sito Miñanco), after 3,500 kilograms of cocaine were found floating in the waters of the Ría de Arousa. Bugallo Piñeiro, also known as *Felo* or *el Mulo* (the 'mule'), started his career piloting *planeadoras* for Sito Miñanco in the 1980s. In 2000, he was detained in Portugal for his alleged participation in the transport of 2,300 kilograms of cocaine (but was acquitted at trial). In 2005, the National Court called him to testify in relation to the smuggling of 4,000 kilograms of cocaine and, a year later, after 2 tonnes of cocaine were found in a van that was intercepted in Tui (Pontevedra), he managed to flee during a police chase. Six months later, he was detained in Vilagarcía. See, for example, Susana Luaña, 'Detenido un piloto de Miñanco por el alijo de la lancha incendiada', *Lavozdegalicia.es*, 21/08/08, http://www.lavozdegalicia.es/galicia/2008/08/22/0003_7079550.htm; Antonio Ojea and Colpisa, 'Detienen al "narco" Rafael Bugallo junto a siete personas y 3.500 kilos de cocaína', *elcorreodigital*, 23/08/08, <http://www.elcorreodigital.com/vizcaya/20080823/pyasco-espana/detienen-narco-rafael-bugallo-20080823.html>; Elisa Lois, 'Rafael Bugallo "El Mulo" ingresa en la prisión de A Lama', *elpais.com*, 23/08/08, http://www.elpais.com/articulo/Galicia/Rafael/Bugallo/Mulo/ingresa/prision/Lama/elpepuespgal/20080823elpgal_9/Tes [all accessed 04/02/09].

⁸⁵ See Elisa Lois, "'Más que repunte del narcotráfico hay exceso de confianza en algunas bandas'", (interview with the Anti-Drug Public Prosecutor of Pontevedra, Marcelo de Azcárraga Urteaga), *elpais.com*, 01/09/08, http://www.elpais.com/articulo/Galicia/repunte/narcotrafico/hay/exceso/confianza/algunas/bandas/elpepautgal/20080901elpgal_9/Tes/ [accessed 10/12/08], citing Marcelo de Azcárraga Urteaga, Anti-Drug Public Prosecutor of Pontevedra.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.* Galicia's *Grupo de Respuesta Especial para el Crimen Organizado* (GRECO) (Special Response Group for Organised Crime) was set up in February 2006. See, for example, MIR (Dirección General de la Policía y de la Guardia Civil), 'El ministro del Interior, Alfredo Pérez Rubalcaba, presenta en Algeciras el nuevo GRECO del Campo de Gibraltar', *Nota de prensa*, Madrid, MIR, 03/05/08, http://www.mir.es/DGRIS/Notas_Prensa/Policia/2008/np050301.html [accessed 04/02/09].

⁸⁸ Interview P15.

⁸⁹ See Giles Tremlett, 'Ruthless heirs of cocaine trade tighten their grip on a smugglers' paradise', *The Guardian*, 16/02/06, p. 23, quoting Manuel Ameijeiras, the Spanish Government's delegate in Galicia.

Nevertheless, despite the increased attention of the Spanish state and the growth in number of measures undertaken by it in recent years, traditionally, the formulation of an efficient and extensive policy against illicit enterprise and 'organised crime' in Spain appears to have been lacking. Even the Spanish Attorney General, Cándido Conde-Pumpido, has admitted that Spain has not reacted with sufficient energy against the installation of transnational criminal organisations⁹⁰. The political authorities in Spain have, for many years, denied the true extent of 'organised crime' and illicit enterprise in the country, sustaining that 'organised' criminals have gone to Spain purely to take refuge⁹¹, and in terms of policy, Spain has acted more reactively than proactively⁹². Thus, and as De la Cuesta argues:

[...] action against organised crime has mainly consisted of specific (one-off) interventions [...] and mostly provoked by international pressure, without a public debate and lacking a systematic approach.⁹³

The action that has been taken in recent years, therefore, may amount to too little, too late. It is clear that weaknesses remain and that the state is still ineffective in certain areas: as we have seen above, still more resources are needed and, undoubtedly, still more measures need to be taken⁹⁴. The police performance indicators may appear impressive, but what do these really mean (how can we really tell, for example, whether a criminal group or activity has been disrupted or destroyed)? Even if the state response to illicit enterprise continues to improve in years to come, the criminal groups active in Spain have already created networks, developed their activities, and implanted their structures in the country. Moreover, other vulnerabilities remain. The remaining sections of this chapter will thus discuss some further inefficiencies apparent in the law enforcement and policing structures and in the legal and judicial spheres which, it is argued, can be very easily exploited by criminal groups.

Inefficiencies surrounding law enforcement and policing structures

The level of attention and priority given to the illicit enterprise affecting Spain by the Spanish police forces would appear to contrast with that given by the political authorities (which has been discussed above). The 2001 study by Mapelli Caffarena *et al*,

⁹⁰ José Luis Barbería, 'Las mafias europeas eligen España para lavar su dinero', *El País*, 02/10/06, p. 26, citing Cándido Conde-Pumpido, the Spanish Attorney General.

⁹¹ See, for example, Luis Gómez, *España Connection: La implacable expansión del crimen organizado en España*, Barcelona, RBA Libros SA, 2005, pp. 25-26. A similar point was also raised during interview J3.

⁹² *Ibid.*, citing José Antonio Rodríguez González, advisor to the Spanish Attorney General. Interestingly, however, the professional interviewed in interview P4 believed that 'the reaction of the Spanish state was quite quick' and that 'there is still time to sort it out'.

⁹³ De la Cuesta, *op. cit.*, p. 814.

⁹⁴ Jiménez, for example, argues that the reforms that have been taken with regard to urban corruption may be insufficient. See Jiménez, *op. cit.*, p. 269.

for example, revealed that 41.79 per cent of officers working in the central UDYCO believed that medium priority is given to the fight against 'organised crime' in the National Police⁹⁵. Further, 25.37 per cent of the officers involved in the study believed it is given high priority and 13.43 per cent believed it to be very highly prioritised⁹⁶. Moreover, it has been argued that the Spanish National Police and Civil Guard units work tirelessly in this area and can be described as the true 'experts' on 'organised crime' in their country, with a precise knowledge and consciousness of the seriousness of the problem⁹⁷. Nevertheless, some problems can be identified in the law enforcement and policing spheres in Spain which, arguably, also facilitate illicit enterprise there. As discussed above, some of the problems experienced by the Spanish police forces stem from a lack of resources and, despite the recent attempts by the Ministry of the Interior to improve these problems, some argue that the police forces still lack resources and equipment⁹⁸ and others highlight that the increase in police resources that have been made have been directed at fighting terrorism and not 'organised crime' or illicit enterprise⁹⁹. Yet, a lack of resources (and even the police corruption discussed in the previous chapter) only partially reveals the problems inherent in these spheres. As will be discussed below, other issues, particularly those related to some clear inefficiencies surrounding the law enforcement and policing structures in Spain, also deserve some consideration.

Since the death of Franco and the onset of democratisation, the police forces in Spain have been significantly transformed. Undoubtedly, this has been necessary. As Palacios Cerezales describes, during the dictatorship:

[...] police legislation and practice stressed the importance of political loyalty to the government instead of service to citizens. Political and social dissent was criminalised, the political police hunted and tortured activists, shock-police units dealt harshly with demonstrations and the gendarmerie forces were often seen as a kind of occupation army rather than as a public service. The police enforced the dictatorial rules and curtailed civil liberties [...]. When the police resorted to illegal violence there were no mechanisms to make them accountable.¹⁰⁰

⁹⁵ See De la Cuesta, *op. cit.*, p. 813, citing Mapelli Caffarena *et al. op. cit.*, p. 26.

⁹⁶ *Ibid.*

⁹⁷ A. Zarzuela, "España es un centro neurálgico del crimen organizado", interview with Luis Gómez, *Cambio*, 27/06/05, p. 29, quoting Luis Gómez, journalist and author. This fact also became very clear to me during interviews and meetings with National Police and Civil Guard personnel during the fieldwork undertaken for this research.

⁹⁸ See, for example, *ibid.*, citing Luis Gómez, journalist and author. Issues relating to a lack of police resources were also raised during interviews C2, J2, J8, P8 and P14, and identified in questionnaires QA and QB.

⁹⁹ See, for example, Ana del Paso, 'Los extranjeros disparan la inseguridad', *Época*, 23/06/06 – 29/06/06, p. 14.

¹⁰⁰ Diego Palacios Cerezales, 'Repressive Legacies and the Democratisation of Iberian Police Systems', *South European Society and Politics*, Vol. 15, No. 3, 2010, pp. 430-431.

During the Franco era, the Spanish public associated the police with the repressive political regime. Therefore, during the transition, democratic credibility required a break from the past and a renewal of the police forces¹⁰¹. As a result, the Moncloa agreements of 1977 included some clauses regarding police reform that were met in a 1978 Police Law and, eight years later, further reforms were implemented¹⁰². During democratisation, then, Spanish police forces have undergone a raft of changes, including changes in relation to their structure, accountability, training, the definition of their goals, and even their uniforms¹⁰³.

What has emerged from the respective reforms, however, is a rather complicated contemporary police structure¹⁰⁴. Currently, Spain has two national police forces. Firstly, there is the National Police (*Cuerpo Nacional de Policía*). Formed in 1986, this is an armed civilian force, accountable to the Ministry of the Interior, which is mainly responsible for policing urban areas (yet it also handles matters such as the identity card system and passports; enforces laws on foreigners; controls private security agencies; and is responsible for cooperating with international police forces)¹⁰⁵. Secondly, there is the Civil Guard (*Guardia Civil*), whose history can be traced back to 1844¹⁰⁶. This is an armed military force, accountable to the Ministry of Defence, which is mainly responsible for policing rural areas as well as frontiers, ports, airports, the movement of prisoners and traffic control outside of the main urban centres¹⁰⁷. Additionally, regional devolution and municipal authority have also transformed the organisation of the police in Spain¹⁰⁸. Reforms undertaken in 1986 allowed for the development of regional and local police forces¹⁰⁹ and thus some autonomous communities of Spain have their own forces. For example, there are also police forces in the País Vasco (Basque Country) (called the *Ertzaintza*), Cataluña (the *Mossos d'Esquadra*) and Navarra (*Policía Foral*)¹¹⁰. There are also the various municipal police forces (*policías municipales*), which are recruited and administered at local level (funded by the town or city council, their job is to uphold the local by-laws and much of their work is

¹⁰¹ See, generally, *ibid.*

¹⁰² *Ibid.*

¹⁰³ *Ibid.* Also see, for example, John Hooper, *The New Spaniards*, completely new and revised edition, London, Penguin Books, 1995, Chapter 15.

¹⁰⁴ Although not one necessarily more complex than under authoritarianism. To compare, see, for example, Palacios Cerzales, *op. cit.*, pp. 431-432.

¹⁰⁵ Amor Diez-Ticio, María-Jesús Mancebon and Celilio Mar Molinero, *The Efficiency of the Spanish Police Service: An Application of the Multiactivity DEA Model*, Discussion Papers in Accounting and Management Science, No. 00-154, Southampton, University of Southampton, May 2000, pp. 4-5.

¹⁰⁶ See Hooper, *op. cit.*, p. 213.

¹⁰⁷ Diez-Ticio *et al.*, *op. cit.*, pp. 4-5.

¹⁰⁸ See Palacios Cerzales, *op. cit.*, pp. 439-440.

¹⁰⁹ *Ibid.*, p. 440.

¹¹⁰ See, for example, Interpol, 'European police and judicial systems: Spain', <http://www.interpol.int/public/Region/Europe/pjsystems/Spain.asp#> [accessed 18/03/07]; John Hooper, *The New Spaniards*, 2nd edition, London, Penguin Books Ltd., 2006, pp. 342-343.

concerned with traffic)¹¹¹. Furthermore, there is also the customs police service from the Customs and Excise Department.

What is significant to the argument of this thesis is that, with the exception of, probably, the municipal police forces, all of these forces are active in operations related to illicit enterprise, thus their competencies overlap. For example, both the National Police and the Civil Guard conduct operations against drug trafficking, immigration crime, prostitution, fraud, money laundering, and so on¹¹², as do the regional police forces in certain autonomous communities. Yet, clearly, this is not the most effective or efficient way to tackle illicit enterprise. As Gregory highlights, when it comes to intelligence-led (and other kinds of) policing, a structure comprising of different police forces is bound to result in a diversity of procedures, performances and tactics¹¹³. Furthermore, different police forces in Spain may well be involved in investigations concerning the very same criminal group or activity, yet operations are managed separately¹¹⁴. Moreover, some argue that cooperation in the field of 'organised crime' between forces, and even between units within the same force, is lacking¹¹⁵. Although five of the questionnaire respondents in this study either disagreed or strongly disagreed that there are problems with cooperation in this regard¹¹⁶, another six of the questionnaire respondents agreed or strongly agreed that there are problems with inter-institutional and/or intra-institutional cooperation between and within the law enforcement bodies in Spain¹¹⁷, and thirteen of the interview respondents (including seven professionals working in the law enforcement field themselves) also identified problems with cooperation in the police forces¹¹⁸. Additionally, the study undertaken by Mapelli Caffarena *et al* in 2001 revealed that 29.85 per cent of the officers of the central UDYCO believed that cooperation between the National Police and Civil Guard in connection with organised crime was low, and 28.35 perceived it as very low (only 4.47 per cent of officers thought that it was high)¹¹⁹. Collaboration between UDYCO

¹¹¹ See Hooper, *The New Spaniards*, 2nd edition, *op. cit.*, p. 338.

¹¹² Gómez-Céspedes and Stangeland, *op. cit.*, pp. 391-392, fn 14.

¹¹³ See Frank Gregory, 'Classify, report and measure: The UK Organised Crime Notification Scheme' in Adam Edwards and Peter Gill (eds.), *Transnational Organised Crime: Perspectives on global security*, (paperback edition), London and New York, Routledge, 2006, pp. 84-85.

¹¹⁴ Gómez-Céspedes and Stangeland, *op. cit.*, pp. 391-392, fn 14.

¹¹⁵ See, for example, Stephen Burgen, 'Pirates of the Mediterranean', *Times Online*, 30/07/06, http://www.timesonline.co.uk/tol/life_and_style/article690365.ece [accessed 14/11/06], citing Ines Barba, criminal lawyer (Málaga).

¹¹⁶ Questionnaires QB, QE, QF, QL and QM.

¹¹⁷ Questionnaires QA, QC, QD, QH, QJ and QK.

¹¹⁸ Interviews J2, J5, J6, P1, P2, P4, P11, P13, P14, P16, C1, C2 and M2.

¹¹⁹ See De la Cuesta, *op. cit.*, p. 813, citing Mapelli Caffarena *et al*, *op. cit.*, p. 31.

and the *Ertzaintza* and the *Mossos d'Esquadra* was also perceived as scarce¹²⁰. Some also argue that the police forces need to collaborate more with the judiciary¹²¹.

De la Cuesta argues that the main reason behind this very limited collaboration is the 'absence of institutional mechanisms of coordination and information exchange, as well as the inadequate legal distribution of competencies'¹²² (although it has to be acknowledged that measures, such as a central unit of criminal intelligence (*Centro de Inteligencia de Crimen Organizado* (CICO) (Organised Crime Intelligence Centre))¹²³ and the *Mando Único* (literally, Single Command), have recently been put in place in order to improve coordination¹²⁴). For others, the lack of collaboration is the result of the jealous protection of intelligence as a commodity between investigation teams within the same agency as well as between different agencies¹²⁵ (which, according to Harfield, is a problem that is also experienced in the UK¹²⁶). What is crucial is that criminals engaged in illicit enterprise will naturally take advantage of such lacunae in cooperation. Thus, although the problems relating to law enforcement structures (and also the lack of resources) that have been discussed in this section are perhaps not unique to police forces solely in Spain, they demonstrate weaknesses in the law enforcement sphere, which could potentially facilitate illicit enterprise in the country. One factor that may be unique to Spain, however, is the accusation that Spanish politicians are simply not paying attention to the police, above all when they alert them to serious problems, such as 'organised crime', which can have grave implications. In this respect, Gómez makes an analogy with terrorism: he argues that politicians did not heed the police warnings about Islamist terrorist elements in Spain and the consequence, in March 2004, was almost 200 deaths (and, he says, the effects of 'organised crime' can be equally devastating, albeit in different ways)¹²⁷.

Inefficiencies in the legal and judicial spheres

As stated earlier in this chapter, in the legal sphere, some significant legal and penal reforms to aid in the fight against 'organised crime' have been implemented. However, although these reforms have progressively introduced new instruments to combat

¹²⁰ *Ibid.*

¹²¹ See, for example, Zarzuela, *op. cit.*, p. 29, citing Luis Gómez, journalist and author.

¹²² De la Cuesta, *op. cit.*, p. 813.

¹²³ CICO was created in 2006 to develop strategic intelligence and establish the criteria for operational coordination in the field of organised crime. See Gobierno de España (Ministerio del Interior (MIR)), *op. cit.*

¹²⁴ For details of some problems (in terms of concept and execution) with the *Mando Único*, however, see 'Cuestión de mando', *ABC*, 16/04/08, p. 4.

¹²⁵ This was particularly emphasised during interview P1.

¹²⁶ See Clive Harfield, 'The criminal not the crime: Practitioner discourse and the policing of organized crime in England and Wales' in Felia Allum, Francesca Longo, Daniela Irrera and Panos A. Kostakos (eds.), *Defining and Defying Organized Crime: Discourse, perceptions and reality*, London and New York, Routledge, 2010, p. 38.

¹²⁷ Zarzuela, *op. cit.*, p. 29, citing Luis Gómez, journalist and author.

'organised crime' and illicit enterprise, it is argued that they have only been implemented gradually and not really in a very systematic way¹²⁸. Moreover, it is claimed that the new legal provisions have been adopted 'without important debate'¹²⁹ and have been 'sometimes, literally copied from [...] principal international conventions and agreements'¹³⁰. As such, they contain contradictions and have been criticised by both academics and police officers¹³¹, 'who demand more developed regulations and resources'¹³².

Additionally, and as noted in Chapter 1, a basic flaw in the legal sphere is that Spanish domestic law lacks an explicit definition of 'organised crime'. The primary piece of criminal legislation in Spain, the *Código Penal* (Penal Code), does not define 'organised crime' at all. The Penal Code foresees 'belonging to a criminal association' as an aggravating circumstance in some crimes (for example, in drug trafficking, prostitution, money laundering, the illegal trafficking of immigrants, and so on¹³³), but it was not until very recently (see below) that a formal definition of even this was included in the Code. Until then, the task of establishing the concept of 'criminal organisation' was left to jurisprudence. In order to classify inmates, Spanish penitentiary legislation also takes into consideration the membership of a criminal organisation¹³⁴ (but no definition of this is provided here). Although *Ley Orgánica 5/2010 de 22 de junio*, (which modified *Ley Orgánica 10/1995 de 23 de noviembre* of the Penal Code, and which came into force in December 2010) now defines 'criminal organisation'¹³⁵, there is still no definition of the concept of 'organised crime' within the Penal Code itself. Indeed, the only place a criminal definition of 'organised crime' can be found is in Article 282bis(4) of the the *Ley de Enjuiciamiento Criminal* (Criminal Procedure Law) (after the reform introduced by *Ley Orgánica 5/1999 de 13 de enero*), which relates to the use of undercover agents¹³⁶. However, as De la Cuesta

¹²⁸ See De la Cuesta, *op. cit.*, p. 808.

¹²⁹ *Ibid.*, p. 814. See also 'Annex 3: Case Study – Spain', *op. cit.*, p. 186, fn 82.

¹³⁰ De la Cuesta, *op. cit.*, p. 814.

¹³¹ See *ibid.*

¹³² *Ibid.*, citing Mapelli Caffarena *et al.*, *op. cit.*, p. 52.

¹³³ See, for example, De la Cuesta, *op. cit.*, p. 800.

¹³⁴ *Belonging to a criminal organisation serves as a basis to send inmates to a closed establishment or to a special department. These facilities are reserved for inmates classified in the first degree of penitentiary treatment (characterised by principles of security, order and discipline, and with a restriction of common activities and the intervention of communications). See *ibid.*, p. 805.*

¹³⁵ Article 570bis states that a 'criminal organisation' is a group of two or more persons, with a stable or indefinite character, which distributes tasks in a concerted and coordinated manner, and which functions to commit crimes or repeated offences (my translation).

¹³⁶ This states (my translation): '4. For the purposes mentioned in the section of this article, organised crime will be considered as the association of three or more people in order to carry out, either permanently or repeatedly, behaviours that constitute any of the following offences:

- a) Offences relating to the kidnapping of persons referred to in Articles 164 to 166 of the Penal Code.
- b) Offences relating to prostitution referred to in Articles 187 to 189 of the Penal Code.
- c) Offences against property and the socioeconomic order referred to in Articles 237, 243, 244, 248 and 301 of the Penal Code.

argues, this definition 'cannot be considered as the Spanish criminal law concept of organised crime'¹³⁷, because the aim of *Ley Orgánica 5/1999 de 13 de enero* was merely to establish the cases in which an undercover agent can intervene; it was not to fix a legal definition of 'organised crime' within Spanish law. Problems such as this, therefore, give support to those who argue that the current legislation and legal provisions in Spain remain insufficient to fight 'organised crime' and illicit enterprise¹³⁸. Others, however, believe that the law, and the legislation in place, is sufficient (or, at least, getting better)¹³⁹. Thus, for some, the problem lies in the lack of its enforcement¹⁴⁰ and, moreover, in the fact that punishments for these types of crime are low in Spain compared with other European nations¹⁴¹ (rationally, 'organised' criminals will be attracted to countries where punishments are lower). Indeed, despite the reforms that have been made in this area, it would seem that there still remain impediments and inefficiencies in the legal sphere that, arguably, are facilitating 'organised crime' and illicit enterprise in Spain.

Other problems can also be identified in relation to criminal procedure and the admissibility of evidence in criminal trials. Indeed, some examples from the case of Galicia serve to illustrate how particular issues in these areas have undoubtedly facilitated illicit enterprise in that region, for instance. Although it is the case that many of Galicia's major drug *capos* (whose names have become legend¹⁴²) have ultimately faced justice and are now serving prison sentences for their crimes, for many years, these figures appeared almost

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- d) Offences relating to intellectual and industrial property referred to in Articles 270 to 277 of the Penal Code
 - e) Offences against the rights of workers referred to in Articles 312 and 313 of the Penal Code.
 - f) Offences relating to the trafficking of threatened species of flora and fauna referred to in Articles 332 and 334 of the Penal Code.
 - g) Offences relating to the trafficking of nuclear and radioactive materials referred to in Article 345 of the Penal Code.
 - h) Offences against public health referred to in Articles 368 to 373 of the Penal Code.
 - i) Offences relating to the counterfeiting of currency referred to in Article 386 of the Penal Code.
 - j) Offences relating to the trafficking and deposition of arms, ammunition or explosives referred to in Articles 566 to 568 of the Penal Code.
 - k) Offences relating to terrorism referred to in Articles 571 to 578 of the Penal Code.
 - l) Offences against the 'Patrimonio Histórico' (Historic Patrimony) referred to in Article 2.1.e) of Organic Law 12/1995, of 12 December, of repression of contraband.¹

¹³⁷ De la Cuesta, *op. cit.*, p. 797.

¹³⁸ See, for example, Burgen, *op. cit.*, citing Ines Barba, criminal lawyer (Málaga). Similar points were also raised during interviews P4, P5, P6, P11, P13, C2, J3, J4, J5 and J6. The respondents of questionnaires QA, QB, QC, QG, QH, QI, QJ and QK also agreed or strongly agreed that there are problems with the legislation.

¹³⁹ Such as the respondents of questionnaires QD, QE, QF, QL and QM, and interviews P3, P8, P11, P12, P15, F2 and M2.

¹⁴⁰ See, for example, Gómez-Céspedes and Stangeland, *op. cit.*; Cruz Morcillo and Pablo Muñoz, 'El "efecto llamada" del crimen organizado', *ABC*, 15/01/06, p. 30. Similar points were also raised during interviews J7, J8 and L2.

¹⁴¹ This point was raised during interviews P11, P13, P14 and J6. See also, for example, Ana del Paso, 'Los extranjeros disparan la inseguridad', *Época*, 23/06/06 – 29/06/06, pp. 12-15; 'El crimen organizado está cada año más arraigado en la comunidad de Madrid', *20minutos.es*, 21/07/08, <http://www.20minutos.es/noticia/400302/> [accessed 19/02/09], citing 'police sources'.

¹⁴² See Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 380.

untouchable, and several of the cases involving the region's drug traffickers have bordered on the farcical. For example, Gómez-Céspedes and Stangeland have called the *Nécora* case a 'big fiasco', due to the acquittal of many of the defendants on the basis that the legislation at that time did not admit the evidence used in the case (this included tapped telephone conversations and a statement of a collaborating witness)¹⁴³. The *Nécora* case was Spain's first drug trafficking maxi-case¹⁴⁴, which National Court judge Baltasar Garzón¹⁴⁵ investigated in 1990. Some 54 defendants were accused of importing 600 kilograms of cocaine from Colombia and, although they were initially sentenced, many of the defendants were absolved, or freed on appeal, because the procedures used during the investigation were deemed 'illegal'¹⁴⁶.

Although the reform of the Spanish Penal Code in 1995 relieved some of the criminal procedural setbacks that hampered the *Nécora* case¹⁴⁷, there are numerous examples of drug barons in Galicia either having their sentences reduced, or being acquitted (time and time again) on the grounds of a lack of evidence, or because the evidence used was inadmissible. For instance, in 1994, Laureano Oubiña (known as *el pajarito*¹⁴⁸ ('little bird')), a historic tobacco smuggler (and also considered to be one of the main, and most powerful, drug *capos* of Galicia), was acquitted of drug trafficking in the *Nécora* case but sentenced to a 12-year prison term for receiving stolen goods (benefiting from laundered money, originating from drug trafficking) and tax offences. Subsequently, the Supreme Court (*Tribunal Supremo*) reduced the sentences and Oubiña left prison in October 1996¹⁴⁹. Less than a year later, he was arrested in Vigo as part of a police operation, during which three tonnes of hashish were seized¹⁵⁰. In October 1999, and after a 'tip off', Oubiña fled Galicia, just as the authorities were preparing to arrest him on

¹⁴³ Gómez-Céspedes and Stangeland, *op. cit.* p. 389.

¹⁴⁴ *Ibid.*

¹⁴⁵ Judge Baltasar Garzón is quite famous in Spain. As Tremlett notes: 'Baltasar Garzón, known as the *superjuez*, the super-judge, is Spain's most controversial, crusading magistrate – the country's answer to the Clean Hands judges of Italy'. See Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 134.

¹⁴⁶ Some defendants, however, were tried again in 1999 and subsequently sentenced. See Gómez-Céspedes and Stangeland, *op. cit.* p. 389.

¹⁴⁷ *Ibid.*

¹⁴⁸ See, for example, Elizabeth Nash, 'The truck driver and bingo caller who became the drug lords of Galicia', *The Independent*, 03/12/00, <http://www.independent.co.uk/news/world/europe/the-truck-driver-and-bingo-caller-who-became-the-drug-lords-of-galicia-627486.html> [accessed 11/12/08].

¹⁴⁹ Primitivo Carrajo, 'El presunto capo Laureano Oubiña, apresado en una redada antidroga en Vigo', *elpais.com*, 09/07/97, http://www.elpais.com/articulo/espana/OUBIÑA_PiñEIRO/LAUREANO/ESPANA/SERVICIO_DE_VIGILANCIA_ADUANERA/SVA/presunto/capo/Laureano/Oubina/apresado/redada/antidroga/Vigo/elpepisp/19970709:elpepinac_10/Tes/ [accessed 11/12/08].

¹⁵⁰ *Ibid.*

another hashish smuggling charge¹⁵¹. Three days after his escape, he was charged with drug trafficking offences and sentenced in his absence. Although Oubiña first entered prison in 1983 (charged with tobacco smuggling), he was later acquitted and freed, a pattern that recurred throughout the years, until he was found in Greece in 2000 and finally imprisoned in Spain after more than a year 'on the run'¹⁵².

Brief mention must also be made here of Sito Miñanco (whose real name is José Ramón Prado Bugallo). Born into a humble family of sailors, known as *Los Miñancos*, from Cambados (Pontevedra), he became involved in contraband tobacco smuggling at the start of the 1980s¹⁵³. Subsequently, he acquired what has been called the 'most brilliant' curriculum of all the drug *capos* of Galicia¹⁵⁴. Highlights of this include his involvement in the transport of some five tonnes of cocaine seized at sea in August 2001. As the leader of a drug trafficking organisation that was working with a Colombian group belonging to the Medellín cartel, he is believed to have supervised the transfer of the drug from one boat to another, just off the coast of Ecuador¹⁵⁵. He was immediately detained in Madrid, put in preventative prison and, in 2004, sentenced (along with 14 other people, including his lawyer) to a prison term of 16 years and 10 months (and a fine of 390 million euros)¹⁵⁶. At the time of this arrest, he was already on bail for another offence. Yet, two months after his detention, and like so many of his contemporaries, he was acquitted of having managed the disembarkation of a consignment of hashish (whilst he was serving a previous sentence, during 1997, in Madrid's Alcalá Meco prison) for lack of evidence¹⁵⁷.

Some further commentary relating to the Charlín clan (described as the 'most famous criminal clan'¹⁵⁸ in the whole of Spain) also serves to highlight how the Spanish legal and procedural systems appear flawed, disorganised and inconsistent. The head of the Charlín clan, Manuel Charlín Gama (otherwise known as *el patriarca* (the patriarch))¹⁵⁹ was also acquitted in the *Nécora* case. By the age of 25, and during the 1960s and 1970s, Charlín Gama already controlled one of the most important gangs involved in contraband tobacco

¹⁵¹ See, for example, Observatoire Géopolitique des Drogues (OGD), 'Spain: Drug Gateway to Europe', *The World Geopolitics of Drugs 1998/1999 Annual Report: IV. Europe*, April 2000, p. 90, http://www.ogd.org/2000/en/ogd99_4en.pdf [accessed 24/07/02] and Nash, *op. cit.*

¹⁵² See Nash, *op. cit.*

¹⁵³ See, for example, EFE, "'Sito Miñanco, condenado a 16 años de cárcel y 390 millones de multa'", *elmundo.es*, 17/07/04, <http://www.elmundo.es/elmundo/2004/07/16/sociedad/1089291086.html> [accessed 10/12/08].

¹⁵⁴ *Ibid.*

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid.*

¹⁵⁷ *Ibid.*

¹⁵⁸ See Diego C. Mariño, 'Charlín Sociedad Clandestina', *elcorreogallego.es*, 02/06/08, <http://www.elcorreogallego.es/index.php?idEdicion=901&idNoticia=307806> [accessed 10/12/08] (my translation).

¹⁵⁹ See, for example, Yanel, *op. cit.*

smuggling¹⁶⁰. Police investigations into the alleged adventures of Charlín Gama as a hashish importer then began in 1980 when, apparently, he made contact with Moroccan suppliers¹⁶¹. Subsequently, it seems, he moved into the cocaine business. In 1999, for example, he was sentenced to a 20 year prison sentence (and a fine of 225 million pesetas) for having organised the transport of 600 kilograms of cocaine from Colombia to Galicia in 1989¹⁶². Several of Charlín Gama's children have also been accused of, and sentenced for, drug trafficking crimes. Primarily, Josefa Charlín Pomares was considered to be her father's 'right arm' (especially whilst he was in prison) and a key member of the clan, involved in both its financial framework and drug trafficking activities¹⁶³. In 1994, she became the most wanted woman in Spain¹⁶⁴, and was eventually captured in Portugal in 2001¹⁶⁵. Manuel Charlín Pomares was sentenced in a 1985 ruling (signed in March 1986) to a three-year prison sentence for a crime against public health and, in a ruling dated April 1991 (signed July 1993), to four years' imprisonment for drug trafficking¹⁶⁶. He was also prosecuted for his alleged participation, at the beginning of 1990, in the transport of some 500 kilograms of cocaine¹⁶⁷. However, in April 2008, it was reported that he had been absolved of drug trafficking offences, which implicated him as a member of an organisation that introduced two consignments of hashish through the coasts of Galicia and the Mediterranean (the tapped telephone conversations involved in the first case were annulled and his participation in the second case could not be proved)¹⁶⁸. As of June 2008, he was free and living in Arousa (Pontevedra)¹⁶⁹. Another son, Melchor Charlín Pomares, was sentenced in 1998 to 18 years imprisonment and fined for the unloading and distribution of 600 kilograms of cocaine in 1989, and for the transport, introduction,

¹⁶⁰ Mariño, *op. cit.*

¹⁶¹ *Ibid.*

¹⁶² Previously, Charlín Gama had served three years in prison for kidnapping and, in a sentence signed in September 1987, he was condemned to four years' imprisonment for a crime against public health (drug trafficking). He was also prosecuted for transporting 500 kilograms of cocaine at the beginning of 1990. As of June 2008, he was still in prison. See, for example, *ibid.*; Yanel, *op. cit.* and 'Salen a subasta varias propiedades de los Charlines valoradas en más de 342.000 euros', *lavozdeg Galicia.es*, 27/05/08, http://www.lavozdeg Galicia.com/arousa/2008/05/28/0003_6855451.htm [accessed 10/12/08].

¹⁶³ Mariño, *op. cit.*

¹⁶⁴ Josefa, for example, has been prosecuted for: her alleged participation in the transport and introduction into the Peninsula of 600 kilograms of cocaine in 1989; her alleged participation in the transport of 500 kilograms of cocaine at the beginning of 1990; the transport and introduction into Spain of more than 800 kilograms of cocaine at the start of 1991; and the transport and introduction of 1,000 kilograms of cocaine at the end of 1991. See *ibid.* and also Tony Thompson and Giles Tremlett, 'Ruthless, rich and bloody: now Europe's most vicious drug lords target Britain', *guardian.co.uk*, 12/06/05, <http://www.guardian.co.uk/news/2005/jun/12/internationalnews> [accessed 10/12/08].

¹⁶⁵ As of June 2008, she was still in prison. See Mariño, *op. cit.*

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.*

¹⁶⁸ See Agencias, 'La Audiencia absuelve a Manuel Charlín de contrabando de drogas', 09/04/08, http://www.laopinioncoruna.es/secciones/noticia.jsp?pRef=2008040900_4_180497_Galicia-Audiencia-absuelve-Manuel-Charlin-contrabando-drogas [accessed 10/12/08].

¹⁶⁹ Mariño, *op. cit.*

unloading and distribution of nearly 4,000 kilograms of hashish in the same year. He was also prosecuted for introducing another 3,500 kilograms of hashish into Spain in 1991 (as of June 2008, though, he too was not in prison)¹⁷⁰. Furthermore, Adelaida Charlín Pomares was prosecuted for her alleged participation in the transport and introduction into Spain of more than 800 kilograms of cocaine at the beginning of 1991 and also for the transport and introduction of 1,000 kilograms of the drug at the end of that year¹⁷¹. Other members of the Charlín family have also acquired criminal prestige. For example, Manuel Charlín Gama's brother, José Luis Charlín Gama, served part of the longest prison sentence (36 years) given for cocaine trafficking in Spain, and his girlfriend, and at least two of his daughters, have also spent time in prison¹⁷². Manuel Charlín Gama's other brother, José Benito, died in 2005 whilst he was on bail awaiting trial for the transport of three tonnes of hashish from Algeciras (Andalucía)¹⁷³. Police considered him to be the 'most skillful' of the three brothers because, in his long and productive smuggling career, he had managed to avoid their numerous 'traps'¹⁷⁴. In 2003, the National Court condemned 14 members of the Charlín clan to sentences of between four and 15 years in prison and to fines of between 300,000 and 5,700,000 euros¹⁷⁵. As a result of their drug trafficking crimes, and in order to pay the numerous fines imposed on them, the seizure of the capital resources of the Charlín clan was ordered and it seemed possible that the family would be deprived of an estate worth, at one time, more than 30 million euros¹⁷⁶. In 2006, however, it was reported that the National Court had acquitted 20 members of the clan, including Manuel Charlín Gama, of some drug trafficking crimes, which they were initially accused of back in 1994, for 'lack of evidence'¹⁷⁷. The National Court considered that:

[I]t had not proved the existence of an organisation, dedicated to the introduction of cocaine into Spain, nor that the defendants participated in operations in which they had supposedly transported 3,000 kilograms of cocaine in two years.¹⁷⁸

One day later, it was then reported that the Supreme Court (*Tribunal Supremo*) had ratified the sentences against Manuel Charlín Gama based on the very same arguments that the

¹⁷⁰ See *ibid.*

¹⁷¹ See *ibid.*

¹⁷² *Ibid.*

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

¹⁷⁵ 'Salen a subasta varias propiedades de los Charlines valoradas en más de 342.000 euros', *op. cit.*

¹⁷⁶ See, for example, *ibid.* and 'El Supremo confirma la pena por blanqueo contra los Charlines', *La Voz de Galicia*, 27/03/07, <http://www.lavozdeg Galicia.es/hemeroteca/2007/03/27/5668526.shtml> [accessed 10/12/08].

¹⁷⁷ See 'Absueltos los veinte acusados del "clan de los charlines" por falta de pruebas', *abc.es*, 15/02/06, http://www.abc.es/hemeroteca/historico-15-02-2006/abc/Nacional/absueltos-los-veinte-acusados-del-clan-de-los-charlines-por-falta-de-pruebas_132291084482.html [accessed 10/12/08].

¹⁷⁸ *Ibid.* (my translation).

National Court had used to absolve him¹⁷⁹. Thus, although it will certainly be true, as some of the interview and questionnaire sources indicated, that the prosecution of Galicia's drug traffickers and smugglers has provided few results due to the fact that the criminals employ specialised lawyers who find loopholes in the law¹⁸⁰, or because they engage in judicial corruption (as discussed in the previous chapter), it is also clear that examples from this case study reveal some general problems and weaknesses in the Spanish legal system, related to admissibility of evidence and procedural matters, for example, which are further exploited by criminals engaged in illicit enterprise.

In addition to the problems in the legal system, there also appears to be some inefficacy in the judicial sphere in Spain. Most notably, it moves very slowly – according to Tremlett, for example, it can take more than a decade to resolve a case in Spain¹⁸¹. Chislett attributes the slowness to some obsolete information technology and to poor coordination between the central government's Justice Ministry and the administration in regional governments¹⁸². The result, however, is that the courts are overloaded with a backlog of cases. Indeed, the backlog of cases reached a total of 2.5 million at the end of 2008¹⁸³ and the worst delays, according to a report released by the *Consejo General del Poder Judicial* (CGPJ) (General Council of Judicial Power) in 2008, are experienced with regard to the number of cases awaiting sentencing (269,405 cases at the end of 2007)¹⁸⁴. This is a problem that appears to be felt more acutely in Madrid than in most of the other regions of Spain – at the end of 2007, with a reported total backlog of around 37,500 sentences waiting to be executed, Madrid was one of the three autonomous communities of Spain with the most sentences pending for criminal offences¹⁸⁵. One cause of this delay, it was claimed, is a lack of resources in the penal courts¹⁸⁶.

Additionally, the judicial system has also been accused of ineptitude, laziness and disinterest, and of being unprepared, uncoordinated and lacking the capacity, transparency

¹⁷⁹ See C. Morcillo, 'El Supremo condenó a los charlines con las mismas pruebas que rechazó la Audiencia', *abc.es*, 16/02/06, http://www.abc.es/hemeroteca/historico-16-02-2006/abc/Nacional/el-supremo-condeno-a-los-charlines-con-las-mismas-pruebas-que-rechazo-la-audiencia_132312479232.html [accessed 10/12/08].

¹⁸⁰ Interviews P2 and J2 and questionnaires QE, QF and QM. During interview J2, it was claimed that each of Galicia's clans has its own lawyers and, sometimes, lawyers become members of the clan.

¹⁸¹ See Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 137. This point was also raised during interview P14.

¹⁸² See William Chislett, *Inside Spain No. 44*, Madrid, Real Instituto Elcano, 15/04/08, accessed through http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Insidespain [accessed 16/04/08].

¹⁸³ See, for example, William Chislett, *Inside Spain No. 53*, Madrid, Real Instituto Elcano, 18/02/09, accessed through http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Insidespain [accessed 18/02/09].

¹⁸⁴ See, for example, J. A. Hernández and M. Altozano, 'La Inspección destapa el colapso en los juzgados que ejecutan las sentencias', *El País*, 07/05/08, p. 19; 'Atasco record en los juzgados de lo Penal', *op. cit.*; María Miranda, 'El Poder Judicial trata de atajar el colapso de las ejecuciones penales', *La Tribuna del Derecho*, 01/05/08 – 15/05/08, p. 26.

¹⁸⁵ The other two autonomous communities were Cataluña and Valencia (with 56,000 and 40,000 sentences waiting to be executed respectively). See, for example, 'Atasco record en los juzgados de lo Penal', *op. cit.*

¹⁸⁶ Particularly, in terms of human resources and computerisation. See *ibid.*

and experience to fight the types of criminal network engaged in illicit enterprise¹⁸⁷. Indeed, the case of the Costa del Sol illustrates many of the problems associated with the judicial system in Spain. Primarily, for example, it seems that the wheels of justice turn especially slowly here and many of the major corruption and 'organised crime' cases discussed previously in this thesis are either still awaiting judgement, or have yet to otherwise reach their final conclusion. For example, the hearing for the *Saqueo* corruption case only began in October 2008, despite the fact that the investigations started back in 2002¹⁸⁸. Furthermore, as of October 2008, the trial for those implicated in *Operación Troya*¹⁸⁹ was still pending and, as of November 2009, the judicial investigation into the famous *Malaya* corruption case had still not been concluded¹⁹⁰. Moreover, until the end of 2008, it seemed that the *Hidalgo* money laundering case had been paralysed due to the lack of a judge¹⁹¹. However, in November of that year, judge María Jesús del Pilar Márquez revived the case with the opening of a new investigation (this judge being the third substitute for the initial examining magistrate, Francisco Javier de Urquía, who (as discussed in Chapter 4) was suspended and charged with prevarication and bribery in connection with the *Malaya* case)¹⁹². Some of the questionnaire respondents (which included some officials working in the legal system in this area) also agreed that the judicial process was 'inefficient' in this region and/or that there was too much bureaucracy in the judiciary and the courts¹⁹³, and some identified a lack of transparency in the judiciary¹⁹⁴. Clearly, sometimes, delays in the judicial procedure are due to the complexity of the particular cases in question and the need to fulfil certain formalities; a situation, it may be argued, which could be improved with the allocation of more human and material resources¹⁹⁵. Sometimes, however, there

¹⁸⁷ See, for example, Hooper, *The New Spaniards*, 2nd edition, *op. cit.*, pp. 333-335; Zarzuela, *op. cit.*, p. 28, quoting Luis Gómez (journalist and author); Morcillo and Muñoz, *op. cit.*. Also interviews P1, P4, P14, C2, J2 and L2.

¹⁸⁸ See, for example, Juana Viúdez, 'El juicio del "caso Saqueo" pelagra tras la renuncia del abogado de Roca', *elpais.com*, 19/09/08, http://www.elpais.com/articulo/andalucia/juicio/caso/Saqueo/pelagra/renuncia/abogado/Roca/elpepiespand/20080919elpand_6/Tes [accessed 14/10/08] and Manuel Altozano, 'Roca niega que la Audiencia Nacional pueda juzgarle por el "caso Saqueo"', *elpais.com*, 11/10/08, http://www.elpais.com/articulo/andalucia/Roca/niega/Audiencia/Nacional/pueda/juzgarle/caso/Saqueo/elpepuespand/20081011elpand_8/Tes [accessed 14/10/08].

¹⁸⁹ See F. J. Pérez, and J. Viúdez, 'Guía de los juicios más esperados de la Costa', *elpais.com*, 05/10/08, http://www.elpais.com/articulo/andalucia/Guia/juicios/esperados/Costa/elpepiespand/20081005elpand_2/Tes [accessed 08/10/08].

¹⁹⁰ See, for example, Jiménez, *op. cit.*, p. 269.

¹⁹¹ Pérez and Viúdez, *op. cit.*

¹⁹² See, for example, Juana Viúdez, 'Una nueva investigación de blanqueo reactiva el "caso Hidalgo"', *elpais.com*, 08/11/08, http://www.elpais.com/articulo/andalucia/nueva/investigacion/blanqueo/reactiva/caso/Hidalgo/elpepiespand/20081108elpand_3/Tes [accessed 20/11/08].

¹⁹³ Questionnaires QG, QH, QI, QJ and QK (although the respondent of QK, who was working in the legal system, disagreed that the judicial process was inefficient, but agreed that there was too much bureaucracy).

¹⁹⁴ Questionnaires QH, QI and QJ.

¹⁹⁵ See, for example, 'Roca, en la Calle', *ABC*, 16/04/08, p. 4.

may be other reasons for a judicial delay, including a lack of receptiveness or support on the part of the judiciary. It has been suggested, for example, that some of the *querellas*¹⁹⁶ presented to the courts by Public Prosecutors in this region have advanced with a 'suspicious' slowness¹⁹⁷. Whatever the cause, however, the result is clear inefficacy in the judicial sphere.

It is clear that the inefficiencies and weaknesses of both the judicial and the legal systems, which have been discussed in this section, can be, and are, manipulated and abused by criminals engaged in illicit enterprise. In support of the hypothesis, therefore, it is argued that the vulnerabilities inherent in these spheres facilitate this kind of criminal activity in Spain. Furthermore, the problems discussed above all contribute to a situation whereby a good part of Spanish public opinion maintains the impression that the criminal justice system as a whole is not very efficient and excessively permissive with criminals¹⁹⁸. There is a feeling, amongst the public, for example, that 'white collar' crimes receive a degree of benevolent or favourable treatment (especially when those implicated in major operations, such as Juan Antonio Roca and others like him, are still yet to be legally tried and judged and/or are repeatedly released from prison)¹⁹⁹. It is also suggested that some sections of the Spanish population believe that drug trafficking is a low risk occupation, which receives little criminal sanction²⁰⁰. Perceptions like these can, in themselves, also serve to further facilitate criminal behaviour. As Jiménez suggests, a climate of impunity:

[...] encourages the commission of new illegalities, which, together with the higher visibility of the inefficiency of contentious jurisdiction in the face of ever more cases, generates an even greater feeling of impunity, in turn giving rise to the growth of illegal behaviour, ad infinitum.²⁰¹

Related to this, Jiménez makes another very important point and thus it is worth quoting from him further. With respect to a climate of impunity, and specifically in relation to the kinds of urban corruption discussed in the last chapter, he states:

In the face of such a sorry scenario, the hope of fighting corruption in urban planning seems to be limited to the area of criminal jurisdiction. However, [...] penal justice has shown itself to be a limited control mechanism in this field. As a general principle, criminal law is only effective when prosecuting behaviour that clearly deviates from the accepted social norm. There are rather more problems when the behaviour to be prosecuted is tolerated by a wide sector of society.²⁰²

¹⁹⁶ In Spanish law, a *querrela* is a type of formal complaint, made to a court, with a request to carry out investigations. This can start criminal proceedings. See, for example, Elena Merino-Blanco, *Spanish Law and Legal System*, 2nd edition, London, Sweet & Maxwell Limited, 2006, pp. 153-154.

¹⁹⁷ See Irujo and Ordaz, *op. cit.*, p. 4.

¹⁹⁸ See, for example, Barbería, *op. cit.*, p. 26.

¹⁹⁹ See, for example, 'Roca, en la Calle', *op. cit.*.

²⁰⁰ Interview P17.

²⁰¹ Jiménez, *op. cit.*, p. 262.

²⁰² *Ibid.*.

Indeed, amongst certain sections of Spanish society, there appears to be a degree of tolerance and indifference to not only urban corruption but also the other kinds of criminal behaviour discussed in this thesis. In relation to urban corruption, for example, according to analysis carried out by Fundación Alternativas:

[...] politicians who are involved in, and indeed convicted of, cases of corruption appear to enjoy the same opportunity to be re-elected as those politicians uninvolved in corruption scandals.²⁰³

In the 2007 elections, 70.7 per cent of the 133 mayors suspected of corruption maintained their position as mayor, and only 29.3 per cent lost their position²⁰⁴. The tolerance (and even support for) improper behaviour is particularly noticeable in certain regions. Jiménez claims that, in some part of the Costa del Sol, as well as in Murcia, the arrest of the mayors charged with urban corruption has generated popular demonstrations of support for them (and accusations have been made of bias on the part of the judge in charge of the case, the prosecutor, or the police)²⁰⁵. He claims that:

All this indicates that a substantial number of Spaniards share a pro-development stance, implying that the issues regarding environmental sustainability and the political corruption problems caused by the enormous urban development during these years do not arouse serious concern in many citizens.²⁰⁶

Some of the interview sources also discussed a long-standing tolerance of corruption and the turning of a 'blind eye' to criminal activities in the Costa del Sol²⁰⁷ (which was corroborated by the questionnaire sources²⁰⁸). Furthermore, it has also been argued that, in Marbella, and the rest of the Costa del Sol, the local population is becoming accustomed (and therefore indifferent) to the killings and kidnappings between 'mafia gangs', which have become 'almost part of the landscape'²⁰⁹. Pérez argues that the public only becomes aware of, and cares about, the problem when 'organised criminals' kill 'innocent' victims²¹⁰.

²⁰³ Fundación Alternativas, *Report on Democracy in Spain 2009: Alliances for a New Spanish Prosperity – Towards a New Global Deal*, Madrid, Fundación Alternativas, 2009 (English version), p. 214, <http://www.falternativas.org/la-fundacion/documentos/libros-e-informes/informe-sobre-la-democracia-en-espana-2009-version-en-ingles> [accessed 28/04/11].

²⁰⁴ *Ibid.*, note 130, citing J. Estefanía (ed.), *Informe sobre la democracia en España/2008*, Madrid, Fundación Alternativas, 2008.

²⁰⁵ Jiménez, *op. cit.*, p. 261.

²⁰⁶ *Ibid.*

²⁰⁷ Interviews P2, J1 and J5.

²⁰⁸ For example, the respondents of questionnaires QG, QH, QI and QK indicated that there existed, in this region, a 'permissive or tolerant' attitude to corruption, and the respondents of questionnaires QH, QJ and QK indicated that there also existed a 'permissive or tolerant' attitude to economic crimes (such as tax evasion, fraud, counterfeiting, and so on).

²⁰⁹ See Fernando J. Pérez, 'Cuando las balas ya son paisaje', *elpais.com*, 28/09/08, http://www.elpais.com/articulo/andalucia/balas/paisaje/elpepispand/20080928elpand_9/Tes/ [accessed 08/10/08] (my translation).

²¹⁰ *Ibid.*

Several of the questionnaire respondents also attested to a feeling of indifference, on the part of the local population in this area, towards 'organised crime' generally²¹¹.

In Galicia too, criminal activities are largely accepted and tolerated, and a 'wall of silence [...] surrounds the *narros*'²¹². Undoubtedly, one reason for this silence is an element of fear (which may also exist in the Costa del Sol²¹³), which keeps some local people from cooperating with the police and speaking out in protest against the traffickers and their criminal activities²¹⁴. Perhaps, to some degree, this fear can be explained by the closeness of the communities in Galicia or by, what one of the interview sources termed as, the 'special' characteristic of Galicia's people. This source said:

The people of Galicia are special [...] everyone knows everyone. When someone sees a stranger, they tell everyone. When police from Madrid go to Galicia, everyone knows. People are suspicious.²¹⁵

Additionally, another of the interview sources said:

These are close communities [...] everyone knows everyone else, so they are under threat [...] everyone knows everyone's wives and where their children go to school [...].²¹⁶

This 'special' characteristic and the closeness of the communities may not only help to cultivate an element of fear in Galicia, but it may also provide a protective atmosphere for the region's criminals in other ways too. Furthermore, fear may not be the only reason for the silence surrounding the traffickers. For example, the Anti-Drug Public Prosecutor of Pontevedra, Marcelo de Azcárraga Urteaga, has complained about the 'hypocrisy' surrounding the drug traffickers, saying that some people know 'who is who in this business' yet they do not denounce the traffickers, but later ask why the police do not detain them²¹⁷. Fear cannot explain this 'hypocrisy' because, as the Prosecutor says, complaints can be made anonymously²¹⁸. Instead, what may explain the tolerance of the local population are the indications that smugglers and drug traffickers, at least until very

²¹¹ Questionnaires QG, QH, QI, QJ and QK.

²¹² Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 383. A similar point was also raised during interviews P2, J4 and P14.

²¹³ Interview P2. See also Irujo and Ordaz, *op. cit.*, p. 2.

²¹⁴ Tremlett, 'Ruthless heirs of cocaine trade tighten their grip on a smugglers' paradise', *op. cit.*. A similar point was also raised during interview J1.

²¹⁵ Interview M1. On a similar point, Tremlett also discusses the characteristic of *retranca*. He states: 'One of the great Galician characteristics is meant to be *retranca*, a devious refusal to let others know what you are doing or thinking. Meeting a Galician on a staircase, other Spaniards like to say, it is impossible to know whether they are going up or down. Ask a Galician their opinion, they add, and the answer will be deliberately fudged. "Depende ...", "That depends ...", the Galician will say'. See Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 378.

²¹⁶ Interview P2. This element of fear may also explain why local officers of the National Police and Civil Guard are so easily corrupted: their families are also under threat from the traffickers.

²¹⁷ See Lois, "Más que repunte del narcotráfico hay exceso de confianza en algunas bandas", (interview with the Anti-Drug Public Prosecutor of Pontevedra, Marcelo de Azcárraga Urteaga), *op. cit.*, citing Marcelo de Azcárraga Urteaga, Anti-Drug Public Prosecutor of Pontevedra.

²¹⁸ *Ibid.*

recently, have been regarded favourably, or even admired, by the local population²¹⁹, because 'they give out favors [*sic*] right and left'²²⁰ and they have helped to 'pump new cash' into the region²²¹. At the very least, society generally appears indifferent to, or permissive and accepting of, criminal behaviour: as one of the interview sources stressed very emphatically:

Selling contraband [in Galicia] is very open in bars and restaurants etc. People are very used to it [...] it's like a tradition inside of society.²²²

This embedding of crime within the local economy clearly facilitates criminal activities in Galicia – at the very least, 'it reduces local hostility to people otherwise depicted as dangers to "society"'²²³. Indeed, a culture of tolerance and indifference, both here and elsewhere in Spain, generally allows illicit enterprise and corruption to flourish and proves advantageous to criminal groups.

Returning to the issues addressed at the beginning of this chapter, then, perhaps it could be argued that society's toleration of illicit enterprise in Spain contributes to the lack of political attention given to it. If citizens do not demand political action in this area, the political authorities may well turn their attentions to other (vote-gaining) issues. Conversely, and in defence of the state, when the public has demanded action, this appears to have stimulated a state response. In Galicia, for example, certain sections of the population have reacted fiercely against the criminal activities undertaken in the region. An inevitable consequence of the extensive drug trafficking in Galicia is that drugs are cheap and plentiful there and drug addiction among young people in the region has soared in recent years²²⁴. As a result, the first public opposition to the drug traffickers came from groups of mothers who had watched their children succumb to addictions and who thus decided to make the traffickers' lives as difficult as possible²²⁵. With the aim of breaking the silence that surrounds Galicia's clans, these women mobilise themselves at drug-related court cases and funerals, and numerous associations have sprung up in coastal areas²²⁶. Perhaps the most famous of these associations is the Fundación Érguete-Integración

²¹⁹ See, for example, Carlos Resa-Nestares, 'Transnational Organized Crime in Spain: Structural Factors Explaining its Penetration' in Emilio C. Viano (ed.), *Global Organized Crime and International Security*, Aldershot, Ashgate Publishing Ltd., 1999, p. 55 and Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 383.

²²⁰ Resa-Nestares, *op. cit.*, p. 55. A similar point was also raised during interviews J6 and P14. For example, during interview P14, it was stated that drug traffickers even finance schools and football teams.

²²¹ Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 383. This point was also raised during interview P14.

²²² Interview J2.

²²³ Michael Levi, 'Organized Crime and Terrorism' in Mike Maguire, Rod Morgan and Robert Reiner (eds.), *The Oxford Handbook of Criminology*, 4th edition, Oxford, Oxford University Press, 2007, p. 787.

²²⁴ Interview P2. See also Hooper, *The New Spaniards*, 2nd edition, *op. cit.*, p. 270.

²²⁵ Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 384. The associations of mothers against drugs were also discussed during interview J6.

²²⁶ See *ibid.* and Resa-Nestares, *op. cit.*, p. 55.

(Érguete-Integration Foundation), led by Carmen Avendaño Otero, which was formed in the city of Vigo in 1999²²⁷. To a lesser extent, other sections of society have also voiced their concerns about the criminal activities carried out in Galicia. For example, one of the professionals interviewed for this research talked generally of the existence of 'social movements' against drugs in Galicia²²⁸, and the parish priest of Cambados (Pontevedra), José Aldao, has specifically protested against cocaine trafficking²²⁹. Such activity has had some important effects in Galicia (even if fear stops the local population participating fully in these efforts²³⁰). Notably, as Resa-Nestares argues, such mobilisations have been:

[...] crucial to the increasing involvement of political and judicial authorities in the fight against drug trafficking as they become increasingly aware of the dimensions of the problem, which until recently they had tolerated.²³¹

Moreover, as noted earlier in this chapter, the recent scandals relating to urban corruption in the Costa del Sol, and the public and media attention that these attracted, had the result of stimulating public policy and state action in that region, and the public concern over 'organised crime'-related violence in Madrid forced political attention onto the problems there.

Yet, the fact that the state has acted against corruption and illicit enterprise when certain sections of the public have demanded it should not detract from the weaknesses otherwise identified in the state's response. Undoubtedly, in some sections of the population, there is a degree of tolerance, passive acceptance, or even support for certain kinds of irregular or unlawful activity in Spain, but this cannot wholly (if at all) explain the state's lack of political will to address the kinds of criminal behaviour with which this thesis is concerned. Indeed, maybe it is the state's lack of attention to illicit enterprise, and its failure to address the apparent inefficiencies in the legal and judicial spheres, that has contributed to the Spanish public's toleration and acceptance of certain criminal activities in Spain. In this regard, Heywood makes an interesting observation in relation to corruption scandals. He points out that:

[...] over time their impact and capacity to shock tends to diminish as the public becomes increasingly inured to public officials committing misdemeanours.²³²

Indeed, if the legal and judicial spheres appear ineffective in responding to the misdemeanours of public officials and the criminal activities of those engaged in illicit

²²⁷ See Tremlett, *Ghosts of Spain: Travels through a country's hidden past*, *op. cit.*, p. 384 and also the Foundation's website <http://www.fundacionerguete.org/>.

²²⁸ Interview J6.

²²⁹ See Tremlett, 'Ruthless heirs of cocaine trade tighten their grip on a smugglers' paradise', *op. cit.*

²³⁰ See *ibid.*

²³¹ Rese-Nestares, *op. cit.*, p. 55.

²³² Paul M. Heywood, 'Corruption in Contemporary Spain', *PS: Political Science and Politics*, Vol. 40, No. 4, 2007, p. 697.

enterprise, there is no wonder that the Spanish public has become desensitised to such behaviour. Effectively, if the state appears to tolerate and give little priority to illicit enterprise, it is not surprising that the Spanish public does the same. Moreover, although it can be argued that the state institutions cannot respond entirely effectively if they receive little cooperation from local communities, the state could do more to counteract this, by stimulating civil society, for example. In an interview, published in one of the Costa del Sol's local newspapers, Fernando Grande-Marlaska, a judge from Spain's National Court, said in relation to corruption of the kind seen in Marbella:

Society must be conditioned against it, through education and training. A more open culture is needed, in which people are not afraid to speak out against corruption and financial crime.²³³

The same could be said for the other kinds of criminal activity that flourish in Spain, and the state could play a more active role here too. Ultimately, it really should not be left to the mothers of Galicia, and others like them, to lead the fight against illicit enterprise in Spain.

²³³ See M. J. Cruzado, 'Judge Grande-Marlaska: "It's not a bad thing for Marbella to be socially stigmatised"', *surinenglish.com*, 06/10/08, <http://www.surinenglish.com/20081006/news/costasol-malaga/judge-grande-marlaska-thing-200810061211.html> [accessed 08/10/08].

Chapter 6

Final Conclusions

This final, brief, chapter will now draw out the key findings of the thesis, identify the strengths and limitations of those findings (and, indeed, discuss the implications of the research as whole) and consider some possible avenues of further research.

Summary of the findings of this thesis: What has been shown?

In Spain, an array of criminal groups variously engages in a wide range of illicit activities. Indeed, despite an increasing involvement of transnational groups, Spanish groups and criminals have continued to maintain a significant presence in the criminal activities that currently flourish there. These activities (drug trafficking, human trafficking/illegal immigration, organised prostitution, vehicle smuggling, fraud, counterfeiting, money laundering, and so on), as well as the groups that engage in them, are typically associated with the phenomenon of 'organised crime'. However, although frequently used, what this term actually means is subject to some considerable controversy and contention. Definitional debates, and the existence of a range of both academic and law enforcement definitions, show that an understanding of this concept is very much dependent on the purpose and perspective of the observer and that it is specific to time and place. In the case of Spain, the activities undertaken there, being either solely related to the supply of illegal goods and services and/or the provision of licit goods through illicit means (purely for profit-making purposes), need to be understood from an enterprise perspective and should more accurately be described as 'illicit enterprise'. As the criminals engaged in these activities in Spain frequently use legitimate services and actors (lawyers, accountants, architects, business people, and so on) to facilitate their enterprises, this sometimes blurs the legal and the illegal realms.

The purpose of the thesis, then, was to make sense of all this and to analyse why criminal activities of this nature, and the groups that engage in them, appear to thrive in Spain. As the underlying research question asked: what is it about Spain that facilitates illicit enterprise? In answering this question, the thesis has shown that, despite some initial scepticism as to their value, the common explanations that are so frequently used to account for these activities in Spain do help us to understand, to some extent, why the country retains a competitive advantage when it comes to illicit enterprise. Indeed, factors relating to Spain's geographical location and characteristics, the nature of its economy (and, particularly, the predominance of certain sectors like tourism and construction), and the

presence of immigrant communities, all interact to make Spain an ideal environment for those engaged in illicit enterprise. To some extent, these factors cannot be ignored – in some cases, they do facilitate criminal activity in Spain and these factors can be particularly salient in certain regions of the country. However, these factors cannot be applied universally to all of the regions of Spain that have been examined in depth in this thesis, not least because, in these regions, the standard explanations vary in their importance and application. Indeed, each of the case study regions has its own set of factors that make it vulnerable to illicit enterprise and some of the common explanations cannot even be validly applied in some areas – for example, tourism and a significant presence of foreigners cannot explain illicit enterprise in Galicia. Moreover, the factors that are so often used to explain illicit enterprise in Spain are not unique to the country and, essentially, they are simply too superficial to credibly explain Spain's particular predisposition to illicit enterprise. If we concentrate solely on these factors and ignore some rather more fundamental explanations, then, we are unable to fully appreciate why this particular form of criminal activity flourishes as it does in Spain.

The thesis therefore hypothesised that other key explanations must be essential in understanding Spain's particular susceptibility to illicit enterprise and a search for these was undertaken in the wider organised crime literature. Unfortunately, however, explanations fitting Spain's exact and particular circumstances cannot be found in this literature. Although convincing explanations, relating to various aspects of state weakness, exist, and can be used to explain the growth of 'organised crime' in a number of countries (such as Italy, Russia, Japan and Colombia, for example), these explanations cannot simply be applied to Spain. Essentially, this literature aims to explain different manifestations of 'organised crime' and the growth of criminal groups which, in their motivations and activities, are different to those which can be found in Spain. Nevertheless, the literature relating to various aspects of state weakness can prove useful in alerting us to the potential inadequacies of a state (and its institutions and systems), which can facilitate the manifestations of criminal activity that some regard as 'organised crime'. From this, it was hypothesised further that the key explanations for illicit enterprise in Spain may be found in the intrinsic weaknesses and vulnerabilities of the political, judicial, legal and law enforcement spheres there.

In support of the hypothesis, the thesis has shown that we can, indeed, find evidence of vulnerabilities in these spheres. The findings of this thesis show how, in Spain, important symbiotic relations exist between criminals engaged in illicit enterprise and some politicians, law enforcement officers and judges, for example. Incidences of corruption also reveal a poor quality of democracy, and examples of bureaucratic incapacity and a lack

of transparency and accountability in the spheres in which these officials work. Additionally, some other legal and judicial deficiencies, some apparent complexities surrounding law enforcement and policing structures, and a lack of political and public attention given to the problem of illicit enterprise contribute further to the weaknesses and vulnerabilities inherent in these spheres. In Spain, criminals engaged in illicit enterprise are able to (and do) manipulate and exploit these vulnerabilities.

It is clear that the intrinsic weaknesses and vulnerabilities of the political, judicial, legal and law enforcement spheres in Spain that have been analysed in this thesis facilitate illicit enterprise in Spain. If political attention to this kind of criminal activity is lacking and the police and the judiciary are vulnerable and weak (because they are understaffed, unmotivated, slow and poorly equipped, both physically and legally), their effectiveness in tackling illicit enterprise (and corruption) is limited. Moreover, corruption in the political, judicial and law enforcement spheres not only reveals further vulnerabilities (a lack of transparency and accountability, and so on), but, in itself, also further undermines the effectiveness of institutions.

Strengths, limitations, and the implications of this research

A consideration of the vulnerabilities discussed in this thesis is essential if we are to fully explain and understand why illicit enterprise affects, exists and flourishes in Spain. Unlike some of the standard explanations that currently prevail, these vulnerabilities can explain illicit enterprise in every one of the case study regions examined in this thesis, as well as in Spain as a whole. The strength of this research, then, lies in providing important and original explanations which have, until now, not been addressed. As such, the research can build on and contribute to the existing academic literature on 'organised crime' in Spain, which is currently very sparse, as well as add to the wider literature in this field of study. Particularly, the research could prove insightful in understanding the potential facilitating factors of illicit enterprise in other nations (especially those with similar institutional (and other) characteristics to Spain). A new and comprehensive understanding of why illicit enterprise occurs in Spain can also aid policy development. If those engaged in controlling and fighting illicit enterprise are to have any real success, and if resources are to be allocated appropriately and efficiently (at both national and supranational level), there is a need to appreciate and recognise all of its facilitating factors, no matter how unpalatable they may be. Although it may well be more convenient for the Spanish authorities to attribute the causes of illicit enterprise to factors outside of their control and blame 'outsiders' for its proliferation, it is clear that containing illicit enterprise in Spain is

contingent on addressing the weaknesses and vulnerabilities inherent in Spain's own political, judicial, legal and law enforcement spheres, many of which the Spanish authorities could alleviate if so wilful.

Nevertheless, the limitations of this research project should be acknowledged. For example, the methodological difficulties associated with research on a phenomenon as secretive and elusive as illicit enterprise are well documented, and some of these problems have inevitably affected the amount, and possibly also the quality, of the data used in the thesis. Indeed, for the reasons discussed earlier in this thesis, the number of questionnaires completed and interviews conducted during the course of this research were relatively modest, and both these and the other data sources used in the research have their disadvantages (thus making triangulation of data particularly important). Furthermore, it is accepted that there may be a limit to the reach of this research. For example, it could be argued that the findings of this thesis can really only be applied to Spain. Indeed, as we have seen, manifestations of 'organised crime' are particular to each and every state. This thesis, and also the literature discussed within it, has shown that the development of 'organised crime' and illicit enterprise is dependent on the specific environment in which it operates. In fact, this is the very reason why the literature relating to Italy, Russia, Japan, Colombia, and so on, could not just be taken and applied in this research. The findings of this thesis, then, may not serve to particularly strengthen, or weaken, any existing theoretical generalisations and thus, in terms of grand theory-building, the research may have its limitations.

Future projects

In light of the findings of this research, it would be interesting to see how illicit enterprise in Spain develops over the next few years. Future projects monitoring any changes in the facilitating factors identified in this thesis and the impact (if any) that these may have on the nature and extent of illicit enterprise in Spain could allow us to extend or refine the results of this project. For example, in relation to the standard explanations, although the geographical location and characteristics of Spain will never change and it is perhaps unlikely that the importance of tourism in Spain will decline, it would seem that the construction sector is currently experiencing a downturn and, in future years, fewer immigrants may choose Spain as their home. Would this make a difference to the extent of illicit enterprise in Spain, or would it continue to flourish as it does today? If illicit enterprise did continue to flourish under these circumstances and yet the weaknesses and vulnerabilities of the political, judicial, legal and law enforcement spheres remained the

same, then our findings could be strengthened further and the common explanations would prove to be even less valid. Alternatively, what if the reverse happens; what if the vulnerabilities identified in this thesis are addressed? Indeed, the thesis has acknowledged that, in recent years, the state has not been entirely ineffective in this area and that some of the weaknesses we have identified are now beginning to receive some attention. In future years, when the impact of these changes has had time to take effect, will illicit enterprise in Spain decrease and become more manageable as a result? If so, this would also provide further support for our hypothesis.

Spain will always possess a number of features that make it an ideal environment for illicit enterprise but, if the vulnerabilities discussed in this thesis are reduced, and if the Spanish authorities are wilful enough, some of the factors that facilitate this kind of criminal activity in Spain could diminish. We might just then begin to see a disruption of illicit enterprise in the country or, at least, a displacement of it from its current location.

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Appendix A

Interviews and Questionnaires: Further Details

Dates and location of interviews

<u>Interview</u>	<u>Date</u>	<u>Location</u>
A1	10/11/05	Málaga, Spain
A2	20/09/06	Madrid, Spain
C1	19/04/06	Leeds, UK
C2	01/05/06	Leeds, UK
F1	06/07/06	Madrid, Spain
F2	06/07/06	Madrid, Spain
J1	09/03/06	Madrid, Spain
J2	04/05/06	Madrid, Spain
J3	15/06/06	Madrid, Spain
J4	15/06/06	Madrid, Spain
J5	17/08/06	Madrid, Spain
J6	21/09/06	Madrid, Spain
J7	18/10/06	Madrid, Spain
J8	14/12/06	Madrid, Spain
L1	21/09/06	Madrid, Spain
L2	28/11/06	Málaga, Spain
M1	05/04/06	Cataluña, Spain
M2	06/07/06	Madrid, Spain
P1	09/03/06	Madrid, Spain
P2	23/03/06	London, UK
P3	03/05/06	Madrid, Spain
P4	03/05/06	Madrid, Spain
P5	14/06/06	Madrid, Spain
P6	14/06/06	Madrid, Spain
P7	05/07/06	Madrid, Spain
P8	06/07/06	Madrid, Spain
P9	16/08/06	Madrid, Spain
P10	16/08/06	Madrid, Spain
P11	28/11/06	Málaga, Spain

P12	29/11/06	Málaga, Spain
P13	13/12/06	Madrid, Spain
P14	14/12/06	Madrid, Spain
P15	22/03/07	Galicia, Spain
P16	22/03/07	Galicia, Spain
P17	22/03/07	Galicia, Spain
P18	22/03/07	Galicia, Spain

Completion dates of questionnaires and regions to which they relate

<u>Questionnaire</u>	<u>Date completed</u>	<u>Region to which it relates</u>
QA	March 2006	Whole of Spain
QB	March 2006	Whole of Spain
QC	March 2006	Whole of Spain
QD	March 2006	Madrid
QE	April 2006	Galicia
QF	May 2006	Galicia
QG	May 2006	Costa del Sol
QH	May 2006	Costa del Sol
QI	May 2006	Costa del Sol
QJ	May 2006	Costa del Sol
QK	May 2006	Costa del Sol
QL	May 2006	Galicia
QM	March 2007	Galicia

Appendix B

Outline Interview Schedule

Interview Schedule

1. How do you define organised crime? Do you agree with/use the EU or UN definition in your organisation, or would you define organised crime in another way?
2. Can you tell me about organised crime in this region? For example, what kinds of groups are active in this region? What kinds of activities do these groups engage in? Do you think the undertaking of these activities is more common in this region (than in other parts of Spain)? How would you rate/categorise/characterise the level and threat of organised crime in this region? Has the problem got better/worse over the years? Why do you think this is?
3. Why do you think there is organised crime in this region? What do you think facilitates organised crime in this region?
4. In your work (when investigating/fighting/prosecuting organised crime etc), what challenges do you face? Where do you encounter problems?
5. Do you think that organised crime is seen as a serious/major problem in Spain? Why/why not? Are there other problems that are considered more important? If so, what are they?
6. Are there any other aspects/issues that you would like to mention, which would inform my study?

Appendix C

Original Questionnaire Template

Note that, in most instances, this template was amended very slightly depending on the case study region in which the respondent was based. In other words, although the substantive content of the questionnaire remained the same in every instance, some of the questions were altered in order to elicit specific information about the region in question (whether that be the Costa del Sol, Galicia or Madrid). In three instances (that is, in relation to questionnaires QA, QB and QC), this template version of the questionnaire was completed because, in those cases, the respondents' knowledge/understanding of 'organised crime' was in relation to Spain as a whole.

Delinuencia organizada en España: Explorando los factores que la favorecen y la causan

Limada sctm / sctm

Agradecemos, me encantaría hablando a cabo una investigación con motivo de un tesis en la Universidad de Leeds (Reino Unido), sobre el fenómeno de la delincuencia organizada en España y, por el momento, en la Costa del Sol/Madrid/Galicia. Particularmente estoy interesado en explorar por qué existe delincuencia organizada en esta zona y qué factores favorecen su existencia.

Como profesional que desempeña sus labores en este campo, las opiniones que usted tenga sobre este fenómeno sería de gran utilidad y, por eso, le agradecería que se tomara unos minutos para rellenar este cuestionario. Todas las respuestas que usted me facilite serán tratadas bajo la más estricta confidencialidad. Al final del cuestionario, encontrará un apartado en el cual le pido que me indique cierta información relacionada con usted y su puesto de trabajo. Esta información tiene propósitos puramente analíticos y cualquier publicación derivada de la tesis no divulgará ningún dato que pueda identificarte ni a usted ni a su institución. Por otra parte, si le interesa, también mucho gusto en enviarle el resumen de los resultados de mi investigación.

Le agradeceré de antemano su valioso tiempo y asistencia en este asunto.

Agradeciendo,

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1. Definición de delincuencia organizada...

Será considerado autor de qué manera será entendido y definidos el término de "delincuencia organizada". Por favor considere las siguientes definiciones:

• Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional (Artículo 2).

Por "grupo delictivo organizado" se entenderá un grupo estructurado de tres o más personas que exista durante cierto tiempo y que actúe concertadamente con el propósito de cometer uno o más delitos graves o delitos tipificados con arreglo a la presente Convención con miras a obtener, directa o indirectamente, un beneficio económico u otro beneficio de orden material.

• La Unión Europea (EU) 12471/94 Rev. 1, Anexo.

En 1993 el Consejo Europeo elaboró una lista de características del crimen organizado. De las once características señaladas, por lo menos seis deben estar presentes, y en ellas deben incluirse las que llevan los números 1, 3, 5 y 11 para cualquier crimen o grupo criminal clasificado como "crimen organizado":

1. Colaboración de más de dos personas.
2. Cada una, con tareas establecidas.
3. Por un tiempo prolongado o indefinido.
4. Que empleen algún tipo de disciplina y control.
5. Que se sospeche que perpetran transacciones criminales graves.
6. Que operen internacionalmente.
7. Que utilicen la violencia u otros medios convencionales orientados hacia la intimidación.
8. Que empleen estructuras comerciales o que parezcan de negocio.
9. Que ejerzan actividades de lavado de dinero.
10. Que tengan influencia en la política, los medios, la administración pública, las autoridades judiciales o la economía.
11. Que estén determinados por la búsqueda de las ganancias y/o el poder.

• LEY ORGÁNICA 5/1999, de 13 de enero, de modificación de la Ley de Enjuiciamiento Criminal en materia de perfeccionamiento de la acción investigadora establecida con el Título Especial de delitos y otras actividades ilícitas graves (Artículo segundo).

4. A los efectos señalados en el apartado de este artículo, se considerará como delincuencia organizada la asociación de tres o más personas para realizar, de forma permanente o reiterada, conductas que tengan como fin cometer alguno o algunos de los delitos siguientes:
 - a) Delito de secuestro de personas previsto en los artículos 164 a 166 del Código Penal.
 - b) Delitos relativos a la prostitución previstos en los artículos 187 a 189 del Código Penal.
 - c) Delitos contra el patrimonio y contra el orden socioeconómico previstos en los artículos 237, 243, 244, 248 y 301 del Código Penal.

- d) Delitos contra los derechos de los trabajadores previstos en los artículos 312 y 313 del Código Penal.
- e) Delito de tráfico de especies de flora o fauna amenazada, previstos en los artículos 332 y 334 del Código Penal.
- f) Delito de tráfico de material nuclear y radiactivo previsto en el artículo 345 del Código Penal.
- g) Delitos contra la salud pública previstos en los artículos 368 a 373 del Código Penal.
- h) Delito de falsificación de moneda previsto en el artículo 386 del Código Penal.
- i) Delito de tráfico y depósito de armas, municiones o explosivos previsto en los artículos 566 a 568 del Código Penal.
- j) Delitos de terrorismo previstos en los artículos 571 a 578 del Código Penal.
- k) Delitos contra el Patrimonio Histórico previstos en el artículo 2.1 a) de la Ley Orgánica 12/1995, de 12 de diciembre, de reparación del patrimonio.

¿Está usted de acuerdo con alguna de las definiciones expuestas anteriormente?

SI	No
----	----

Si no respalda la más alternativa, ¿con cuál de las definiciones está usted de acuerdo?

¿La definición de las Naciones Unidas?	Por favor señale
¿La definición de la Unión Europea?	
¿La definición mencionada en la Ley Orgánica 5/1999	

Si no respalda la más alternativa, ¿definiría usted el término de delincuencia organizada de alguna otra forma? ¿Podría indicar las circunstancias clave de dicha delincuencia organizada?

2. Delincuencia organizada en la Costa del Sur/Madrid/Canarias ...

Me gustaría saber acerca de la delincuencia organizada en la Costa del Sur/Madrid/Canarias ...

Por ejemplo, ¿qué tipo de grupos delictivos organizados están activos en esta región?

¿Grupos españoles?	Por favor indique todos los que apliquen
¿Grupos extranjeros?	
¿Grupos de sacralidad mixta?	

¿Podría usted comentar brevemente acerca del tamaño y la estructura de estos grupos?

En el caso de la existencia de grupos criminales activos en esta región, ¿podría usted indicar su procedencia (esto es, cuál es su país de origen)?

¿A qué tipo de actividades se dedican los grupos delictivos organizados de esta región?

	Por favor indique todos los que apliquen
¿Narcotráfico?	
¿Tráfico de armas?	
¿Prostitución organizada?	
¿Contribución de antigüedades?	
¿Contrabando de flores y frutas?	
¿Robo e contrabando de vehículos?	
¿Extorsión?	
¿Prostitución?	
¿Contrabando de inmigrantes / tráfico de personas?	
¿Venta de desechos tóxicos?	
¿Fabricación y fraude?	
¿Blanqueo de capitales?	

Otros actividades (por favor enumerar)

Los grupos activos en la Costa del Sur/Madrid/Canarias, ¿se dedican a las siguientes actividades?

¿Uso de violencia?	Por favor indique todos los que apliquen
¿Uso de corrupción?	
¿Actividades transnacionales?	
¿Cooperación con otros grupos delictivos organizados?	
¿Infiltración en la economía legítima?	

Considere que las actividades de delincuencia organizada son endémicas en:

	Por favor indique todos los que apliquen
¿La Costa del Sur?	
¿El Levante?	
¿Castilla?	
¿Galicia?	
¿Madrid?	
¿Las Islas Canarias?	
¿Las Islas Baleares?	
¿Otras partes de España?	
¿Español exterior?	

¿En cuál de estas regiones piensa que el fenómeno de delincuencia organizada es más común?

3. Factores favorecedores o causantes ...

En esta parte, estoy participativamente interesado en explorar "por qué" están determinadas organizadas en esta región y "cuáles" factores favorecen su existencia en la Costa del Sur/Madrid/Canilla.

A la vista de su experiencia profesional y su conocimiento de la región, le agradecería me indicara si ciertos factores tienden a favorecer, o no, actividades de delincuencia organizada en la Costa del Sur/Madrid/Canilla.

Los factores que más me interesan son:

- Factores legales y procedimentales
- Factores relacionados a la seguridad pública y a los Cuernos y Fuerzas de Seguridad del Estado
- Factores sociales
- Factores políticos
- Factores económicos
- Factores geográficos

Instrucciones:

En las siguientes secciones, usted encontrará una lista de factores bajo los siglas que se han mencionado anteriormente. Para cada factor, ¿podría usted indicar en qué grado de acuerdo o desacuerdo está usted con respecto a la causalidad que cada factor tiene sobre el desarrollo de la delincuencia organizada en la zona?

Sin embargo, si considera que existen otros factores que deberían incluirse, por favor añádelos al final de la sección.

Deberá indicar su opinión usando la siguiente escala:

1	2	3	4	5
Totalmente de acuerdo	De acuerdo	No estoy seguro / No lo sé	En desacuerdo	Totalmente en desacuerdo

Factores Legales y Procedimentales

Lista de respuestas:

1	2	3	4	5
Totalmente de acuerdo	De acuerdo	No estoy seguro / No lo sé	En desacuerdo	Totalmente en desacuerdo
Asuntos legales y legislativos:				
Existen problemas relacionados con la legislación en materia de lucha contra la delincuencia organizada (por ejemplo, los estatutos legales son laxos, inadecuados o insuficientes etc.)				
				1 2 3 4 5
Existen problemas relacionados a las actuaciones judiciales				
				1 2 3 4 5
Las penas para este tipo de delitos son inadecuadas (por ejemplo, las penas son laxas etc.)				
				1 2 3 4 5
El proceso de investigaciones:				
Existen problemas para reunir la evidencia (por ejemplo, con el uso de inteligencia, informantes, agencias cooperativas o intervenciones telefónicas etc.)				
				1 2 3 4 5
Existen problemas de cooperación interinstitucional (por ejemplo, cooperación entre la policía y la Agencia Tributaria o la banca etc.)				
				1 2 3 4 5
Existen problemas para admitir la evidencia en los juicios				
				1 2 3 4 5
El proceso judicial:				
El proceso judicial es ineficiente (por ejemplo, toma un largo tiempo para resolver los casos)				
				1 2 3 4 5
Existe demasiada burocracia en la judicatura y en los juzgados				
				1 2 3 4 5
Existe una falta de transparencia / resultado de cuarenta dentro de la judicatura				
				1 2 3 4 5
Existe corrupción dentro de la judicatura				
				1 2 3 4 5
La representación legal:				
Existen abogados corruptos que facilitan las actividades de la delincuencia organizada				
				1 2 3 4 5
Existen abogados corruptos que ayudan a la delincuencia organizada				
				1 2 3 4 5
¿Existen otros factores legales o procedimentales? (Por favor anote)				

*Quisiera comentar algo más en relación a estos factores legales y procedimentales y cómo favorecen a la delincuencia organizada en esta región?

Estructura Relacionada a la Seguridad Pública y a las Fuerzas y Fuerzas de Seguridad del Estado

Nivel de respuesta	De acuerdo	No estoy seguro / No lo sé	En desacuerdo	Totalmente en desacuerdo
Requisitos:				
Existe una fila de personal profesional especializado (por ejemplo, número de efectivos que han recibido formación y entrenamiento en temas de delincuencia organizada exclusivamente)				1 2 3 4 5
Existe una fila de personal en general (por ejemplo, personal administrativo, intérpretes o productores etc.)				1 2 3 4 5
Existe una fila de recursos económicos (por ejemplo, ¿es suficiente el presupuesto anual?)				1 2 3 4 5
Existe una fila de recursos tecnológicos y técnicos (por ejemplo, ordenadores, software, bases de datos etc.)				1 2 3 4 5
Existe una fila de equipación policial (por ejemplo, vehículos, armas, chalecos antibalas, microfonos etc.)				1 2 3 4 5
Cooperación:				
Existe poca cooperación inter-institucional entre las diferentes brigadas de policía (por ejemplo, entre la brigada de narcotráfico y la brigada de delincuencia económica, la brigada de delincuencia económica y la brigada de delitos violentos etc.)				1 2 3 4 5
Existe poca cooperación inter-institucional entre los diferentes Cuerpos y Fuerzas de Seguridad del Estado (por ejemplo, entre la Policía Nacional y la Guardia Civil, entre la Policía Nacional y los Mossos d'Esquadra, entre la Guardia Civil y la Euzkadi etc.)				1 2 3 4 5
Especialización y Conocimiento:				
Existe una fila de conocimiento y entrenamiento en relación a delitos sobre delincuencia organizada				1 2 3 4 5
Existe una fila de experiencia en el manejo de casos sobre delincuencia organizada				1 2 3 4 5
Existe una fila de formación en esta área				1 2 3 4 5
Corrupción:				
Existe corrupción policial				1 2 3 4 5
¿Existen otros factores relacionados a la seguridad pública y a las Fuerzas y Fuerzas de Seguridad del Estado? (por favor anote)				

¿Quisiera comentar algo más en relación a estos factores y cómo favorecen a la delincuencia organizada en esta región?

Fuerzas Sociales

Nivel de respuesta	De acuerdo	No estoy seguro / No lo sé	En desacuerdo	Totalmente en desacuerdo
Actividad respecto a las actividades de la delincuencia organizada:				
Existe un firme convencimiento en la importancia que guardan los derechos humanos y las libertades civiles (por ejemplo, ¿ese convencimiento dificulta/estorba la lucha contra la delincuencia organizada?)				1 2 3 4 5
Existe una actitud permisiva o tolerante respecto al consumo del alcohol y las drogas				1 2 3 4 5
Existe una actitud permisiva o tolerante respecto a los delitos económicos (por ejemplo, frente a la evasión de impuestos, fraude, falsificación etc.)				1 2 3 4 5
Existe una actitud permisiva o tolerante respecto a la corrupción				1 2 3 4 5
Existe una actitud permisiva o tolerante respecto a la violencia relacionada con la delincuencia organizada				1 2 3 4 5
Existe una actitud permisiva o tolerante respecto a la prostitución				1 2 3 4 5
Existe una actitud permisiva o tolerante respecto a la violación de las actividades valedoras de los derechos de propiedad intelectual (por ejemplo, la piratería de productos y mercancías etc.)				1 2 3 4 5
Por lo general, existe indiferencia frente a la delincuencia organizada por parte de las personas de a pie				1 2 3 4 5
La prevención de estratagemas:				
Existe una presencia significativa de barreras en esta región				1 2 3 4 5
Existe una presencia significativa de estratagemas propensoras de tiempos compartidos o segundas residencias en esta región				1 2 3 4 5
Existe una presencia significativa de distritos o comunidades de inmigrantes en esta región				1 2 3 4 5
¿Existen otros factores sociales? (por favor anote)				

¿Quisiera comentar algo más en relación a estos factores sociales y cómo favorecen a la delincuencia organizada?

Factores Políticos

Nivel de respuesta:				
1	2	3	4	5
Totamente de acuerdo	De acuerdo	No estoy seguro / No lo sé	En desacuerdo	Totamente en desacuerdo
Actitudes políticas:				
La delincuencia organizada no tiene importancia en la agenda política nacional (por ejemplo, ¿otros problemas son considerados más importantes? ¿Se toma en serio la amenaza de la delincuencia organizada?)				
				1 2 3 4 5
La delincuencia organizada no tiene importancia en la agenda política local				
				1 2 3 4 5
Existe una falta de voluntad política para luchar contra la delincuencia organizada				
				1 2 3 4 5
Existe una reticencia por parte de los políticos para hacer algo que sea que implique la reimpresión del control de la autoridad sobre la sociedad (por ejemplo, ¿no voy en las políticas públicas a confundirse con líderes de la derecha?)				
				1 2 3 4 5
Actitudes en general:				
La gente no desea confianza en el estado y/o sus instituciones				
				1 2 3 4 5
El sistema político:				
El sistema político descentralizado funciona de manera ineficaz (por ejemplo, existe una falta de comunicación entre el gobierno central y los gobiernos regionales o locales, etc.)				
				1 2 3 4 5
Recursos:				
Los presupuestos locales para luchar contra la delincuencia son inadecuados				
				1 2 3 4 5
Responsabilidad democrática:				
Existe una falta de transparencia / responsabilidad democrática en la política y en la administración pública				
				1 2 3 4 5
Existe corrupción política en la región				
				1 2 3 4 5
¿Existen otros factores políticos? (por favor anote)				

¿Quieres comentar algo más en relación a estos factores políticos y cómo favorecen a la delincuencia organizada?

Factores Económicos

Nivel de respuesta:				
1	2	3	4	5
Totamente de acuerdo	De acuerdo	No estoy seguro / No lo sé	En desacuerdo	Totamente en desacuerdo
Tipos de industria:				
La industria turística de esta región facilita la delincuencia organizada de alguna modo u otro				
				1 2 3 4 5
La importancia económica inherente de la región facilita la delincuencia organizada de algún modo u otro				
				1 2 3 4 5
Ingreso per cápita:				
El nivel de la riqueza de la población local en general es relativamente bajo				
				1 2 3 4 5
Existe una falta de oportunidades de empleo en la región				
				1 2 3 4 5
Bancos e instituciones financieras:				
La falta de solidez del sistema financiero y de las instituciones financieras en la región facilitan actividades de delincuencia organizada				
				1 2 3 4 5
Existe una falta de transparencia / rendición de cuentas por parte de los bancos y las instituciones financieras				
				1 2 3 4 5
Existe una falta de aplicación de la normativa contra el blanqueo de capitales en bancos e instituciones financieras				
				1 2 3 4 5
Globalización y comercio internacional:				
Actualmente existen más y mejores vínculos comerciales con otras naciones				
				1 2 3 4 5
¿Existen otros factores económicos? (por favor anote)				

¿Quieres comentar algo más en relación a estos factores económicos y cómo favorecen a la delincuencia organizada?

Factores Geográficos

Escala 5 respuestas

Tratamiento de acuerdo	3	2	1	4	5
	De acuerdo	No estoy seguro / No lo sé	No lo sé	En desacuerdo	Totalmente en desacuerdo
Situación:					
La situación geopolítica del conjunto de España es ideal para llevar a cabo actividades de delincuencia organizada					1 2 3 4 5
La Costa del Sol/Madrid Galicia tiene una situación geográfica ideal para llevar a cabo actividades de delincuencia organizada					1 2 3 4 5
Características geográficas:					
En esta región, existen ciertas características geográficas que facilitan las actuaciones de la delincuencia organizada (por ejemplo, muchos kilómetros de costa, las montañas, los bosques, etc.)					1 2 3 4 5
En esta región, existen un amplio número de ciudades importantes, que facilitan las actuaciones de la delincuencia organizada					1 2 3 4 5
La existencia, el número y las características de los puertos aéreos, terrestres y marítimos en esta región facilitan las actividades de la delincuencia organizada					1 2 3 4 5
¿Existen otros factores geográficos? (por favor avise)					

¿Quisiera comentar algo más en relación a estos factores geográficos y cómo favorecen a la delincuencia organizada?

¿Quisiera mencionar algún otro aspecto o asunto que contribuya a mi investigación?

Por favor indique sus datos personales (profesión, sexo y puesto de trabajo) en el espacio a continuación (Nota: Esta información tiene propósitos puramente estadísticos y se guardará bajo la más estricta confidencialidad).

Le agradezco mucho su tiempo y colaboración.

Javier Simal

Appendix D

English Translation of Questionnaire Template

Organised Crime in Spain: Exploring its Facilitating and Causal Factors

Dear Sir / Madam

Gentlemen, I am undertaking research at the University of Leeds (UK), on the phenomenon of organised crime in Spain and, at the moment, on organised crime in the *Comunidad del Sur*/Madrid/Valencia. Particularly, I am interested in exploring why organised crime exists in that region and the factors that facilitate its existence.

As a professional working in this area, the opinions that you have about this phenomenon would be very useful and, therefore, I would be grateful if you could take some time to complete this questionnaire. All the responses that you give will be treated with the strictest confidentiality. At the end of the questionnaire, you will find a section in which I ask you to give some information about yourself. This information is purely for analytical purposes and any publication resulting from the thesis will not divulge any information that could identify either you or your institution. Moreover, if you are interested, I will gladly send you a summary of the results of my research.

Thank you very much for your time and assistance in this matter.

Yours faithfully

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1. Defining 'organised crime'

It would be useful to know how you define and understand the term 'organised crime'. Please consider the three definitions listed below:

- The United Nations (UN) Transnational Organized Crime Convention (Article 2)

The UN Convention defines an 'organized crime group' as a structured group of three or more persons that exists for a certain period of time and that works systematically with the intention of committing one or more serious crimes or crimes typified in accordance with the Convention, with a view to obtain, directly or indirectly, an economic profit or some other material benefit.

- The European Union (EU) (EU/22471/94 Rev. 1 Annex)

In 1993 the European Council developed a list of characteristics of organized crime. According to the EU, for the definition of organized crime to be fulfilled, at least six of these characteristics must be present, and four of them must be those numbered 1, 3, 5 and 11:

1. Collaboration of more than two people;
2. each with their own appointed task;
3. for a prolonged or indefinite period of time;
4. using some form of discipline and control;
5. suspected of the commission of serious criminal offences;
6. operating on an international scale;
7. using violence or some other means suitable for intimidation;
8. using commercial or businesslike structures;
9. engaged in money laundering;
10. exerting influence on politics, the media, public administration, judicial authorities or the economy;
11. motivated by the pursuit of profit and/or power.

- ORGANIC LAW 5/1999, of 13 January, amending the Criminal Procedure Act in terms of improving the investigative actions related to illegal drug trafficking and other serious illegal activities (Article 170)

4. For the purposes mentioned in the section of this article, organized crime will be considered as the association of three or more people in order to carry out, either permanently or repeatedly, behaviours that constitute any of the following offences:

- a) Offences relating to the kidnapping of persons referred to in Articles 164 to 166 of the Penal Code
- b) Offences relating to prostitution referred to in Articles 187 to 189 of the Penal Code
- c) Offences against property and the socioeconomic order referred to in Articles 237, 243, 244, 248 and 301 of the Penal Code
- d) Offences against the rights of workers referred to in Articles 312 and 313 of the Penal Code

- e) Offences relating to the trafficking of threatened species of flora and fauna referred to in Articles 312 and 314 of the Penal Code
- f) Offences relating to the trafficking of nuclear and radioactive materials referred to in Article 345 of the Penal Code
- g) Offences against public health referred to in Articles 368 to 373 of the Penal Code
- h) Offences relating to the counterfeiting of currency referred to in Article 386 of the Penal Code
- i) Offences relating to the trafficking and deposition of arms, munitions or explosives referred to in Articles 505 to 508 of the Penal Code
- j) Offences relating to terrorism referred to in Articles 571 to 578 of the Penal Code
- k) Offences against the 'Patrimonio Histórico' (Historic Patrimony) referred to in Article 2.1 e) of Organic Law 12/1995, of 12 December, of 'repression of counterband'

Do you agree with any of these definitions?

Yes	No
-----	----

If yes, which of the definitions do you agree with?

	Please tick
The UN definition	
The EU definition	
The definition contained in Ley Organica 5/1999	

If no, would you define organized crime in another way? Can you tell me briefly how you would define organized crime?

2. *Organised crime in the Costa del Sol/Madrid/Canaria ...*

I would particularly like to know about organised crime in the Costa del Sol/Madrid/Canaria ...

For example, what kinds of organised crime groups are active in this region? Are there:

Spanish groups?	Please tick all that apply
Foreign groups?	
Mixed nationality groups?	

Can you comment briefly on the size and structure of these groups?

If foreign groups are active in this region, where are they from (i.e. what is the country of origin of these groups)?

What kinds of activities do the organised crime groups in this region engage in? For example, do they engage in:

Drug trafficking?	Please tick all that apply
Arms trafficking?	
Organised prostitution?	
Smuggling of antiquities?	
Smuggling of flora and fauna?	
Vehicle theft and/or smuggling?	
Extortion?	
Protection?	
Human smuggling / people trafficking?	
Illegal toxic waste dumping?	
Counterfeiting and fraud?	
Money laundering?	

Other activities (please list)

Do the groups active in the Costa del Sol/Madrid/Canaria also engage in:

The use of violence?	Please tick all that apply
The use of corruption?	
Transactional activities?	
Cooperation with other organised crime groups?	
Permeation of the legitimate economy?	

Do you think that organised crime activities are endemic in:

The Costa del Sol?	Please tick all that apply
The Levante?	
Canarias?	
Galicia?	
Madrid?	
The Canary Islands?	
The Balearic Islands?	
Other parts of Spain?	
Spain as a whole?	

In which of these areas do you think that organised crime activities are most common?

3. *Facilitating and/or causal factors...*

In this part, I am particularly interested in explaining why there is organized crime in this region and considering the factors that might facilitate the existence of organized crime in the Costa del Sol/Madrid/Cálicia.

In light of your professional experience and knowledge of organized crime in this region, I would be grateful if you could indicate whether or not you agree that certain factors might be a cause or facilitator of organized crime in the Costa del Sol/Madrid/Cálicia.

The factors that mostly interest me are:

- Legal and procedural factors
- Factors relating to policing and law enforcement
- Social factors
- Political factors
- Economic factors
- Geographical factors

Instructions:

In the following sections, you will be given a list of factors under these headings. For each factor, please could you indicate the extent of your agreement or disagreement as to whether the factor could facilitate organized crime in this region.

However, if you think that there are other factors that have not been included here, please add these at the end of the respective section.

Please indicate your opinion using the following scale:

1	2	3	4	5
Strongly Agree	Agree	Not Sure / Don't Know	Disagree	Strongly Disagree

Legal and Procedural Factors

Scale	1	2	3	4	5
	Strongly Agree	Agree	Not Sure / Don't Know	Disagree	Strongly Disagree
Legal matters and the law:					
There are problems with the legislation in relation to the fight against organized crime (e.g. the legal provisions are weak, inadequate or ineffective etc.)	1	2	3	4	5
There are problems relating to judicial authorities	1	2	3	4	5
The penalties for offences of this type are inappropriate (e.g. they are lenient/weak etc.)	1	2	3	4	5
The investigative process:					
There are problems with the gathering of evidence (e.g. with the use of intelligence, wiretapping, microphones, undercover agents etc.)	1	2	3	4	5
There are problems with inter-institutional cooperation (e.g. between the police and the tax authorities/customs or the police and the banks etc.)	1	2	3	4	5
There are problems with administration of evidence in the courts	1	2	3	4	5
The judicial process:					
The judicial process is inefficient (e.g. it takes a long time for cases to be resolved)	1	2	3	4	5
There is too much bureaucracy within the judiciary and the courts	1	2	3	4	5
There is a lack of transparency / accountability within the judiciary	1	2	3	4	5
There is the existence of corruption in the judiciary	1	2	3	4	5
Legal representatives:					
There are corrupt lawyers that facilitate the activities of organized crime	1	2	3	4	5
There exist corrupt lawyers that assist in organized crime activities	1	2	3	4	5
Other legal / procedural facilitating factors? (please list)					

Can you tell me more about these legal and procedural factors and how they facilitate organized crime in this region?

Factors Related to Policing and Law Enforcement

	Scale				
	1	2	3	4	5
	Strongly Agree	Agree	Not Sure / Don't Know	Disagree	Strongly Disagree
Resources:					
There is a lack of professional and specialised personnel (e.g. number of police officers that have received education and training on issues relating to organised crime exclusively)					1 2 3 4 5
There is a lack of personnel in general (e.g. administrative staff, interpreters or translators etc.)					1 2 3 4 5
There is a lack of economic resources (e.g. is the annual budget sufficient?)					1 2 3 4 5
There is a lack of IT resources (e.g. computers, software, databases etc.)					1 2 3 4 5
There is a lack of police equipment (e.g. vehicles, arms, bullet-proof vests, microphones etc.)					1 2 3 4 5
Cooperation:					
There is little inter-institutional cooperation between different police units (e.g. between the drugs unit and the economic crime unit, the economic crime unit and the violent crime unit etc.)					1 2 3 4 5
There is little inter-institutional cooperation between police forces (e.g. between the National Police and the Civil Guard, between the National Police and the Los Misioneros D Espanola between the Civil Guard and the Euzkadi etc.)					1 2 3 4 5
Specialisation and Knowledge:					
There is a lack of knowledge and understanding about organised crime offences					1 2 3 4 5
There is a lack of experience in the management of organised crime cases					1 2 3 4 5
There is a lack of training in this area					1 2 3 4 5
Corruption:					
There is the existence of corruption within the police forces					1 1 2 3 4 5
Other facilitating factors relating to policing and law enforcement? (please list)					

Can you tell more about these factors relating to policing and law enforcement and how they facilitate organised crime in this region?

Social Factors

	Scale				
	1	2	3	4	5
	Strongly Agree	Agree	Not Sure / Don't Know	Disagree	Strongly Disagree
Attitudes towards organised crime activities:					
There is a strong belief in the importance of human rights and civil liberties (e.g. does this impede the fight against organised crime?)					1 2 3 4 5
A permissive / tolerant attitude towards alcohol and drugs exists					1 2 3 4 5
A permissive / tolerant attitude towards economic crimes exists (e.g. tax evasion, fraud, counterfeiting etc.)					1 2 3 4 5
A permissive / tolerant attitude towards corruption exists					1 2 3 4 5
A permissive / tolerant attitude towards the violence related to organised crime exists					1 2 3 4 5
A permissive / tolerant attitude towards prostitution exists					1 2 3 4 5
A permissive / tolerant attitude towards the violation of intellectual property rights and copyright laws exists (e.g. piracy of products and goods etc.)					1 2 3 4 5
In general, people are indifferent to organised crime					1 1 2 3 4 5
Presence of foreign residents:					
There is a significant presence of tourists in this region					1 2 3 4 5
There is a significant presence of foreigners with holiday / second homes in this region					1 2 3 4 5
There is a significant presence of different immigrant communities in this region					1 2 3 4 5
Other social facilitating factors?					

Can you tell me more about these social factors and how they facilitate organised crime in this region?

Political Factors

Scale:					
Strongly Agree	1	2	3	4	Strongly Disagree
Political attitudes:					
Organised crime does not have importance on the national political agenda (e.g. are other problems considered more important? Is the threat of organised crime taken seriously?)					1 2 3 4 5
Organised crime does not have importance on the local political agenda					1 2 3 4 5
There is a lack of political will to fight organised crime					1 2 3 4 5
There is a reluctance on the part of officials to do anything that appears to involve the re-imposition of control over society (e.g. do legacies of the dictatorship remain?)					1 2 3 4 5
Attitudes in general:					
People do not have confidence in the state and/or its institutions					1 2 3 4 5
The political system:					
The decentralised political system functions in an inefficient manner (e.g. there is a lack of communication between the central government and the regional and local governments etc.)					1 2 3 4 5
Resources:					
The local budgets to fight crime are inadequate					1 2 3 4 5
Democratic responsibility:					
There is a lack of transparency / democratic accountability in political and public offices					1 2 3 4 5
There is political corruption in the region					1 2 3 4 5
Other political facilitating factors?					

Can you tell me more about these political factors and how they facilitate organised crime?

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Economic Factors

Scale:					
Strongly Agree	1	2	3	4	Strongly Disagree
Nature of industry:					
The tourist industry in this region facilitates organised crime in some way or another					1 2 3 4 5
Urban activity (construction and real estate) in the region facilitates organised crime in some way or another					1 2 3 4 5
Income per capita:					
The level of wealth of the local population in general is comparatively low					1 2 3 4 5
There is a lack of employment opportunities in the region					1 2 3 4 5
Banks and financial institutions:					
The strength / weakness of the financial system and financial institutions in the region facilitates organised crime activities					1 2 3 4 5
There is a lack of accountability / transparency in banks and financial institutions					1 2 3 4 5
There is a lack of, or non-compliance with, anti-money laundering provisions in banks and financial institutions					1 2 3 4 5
Globalisation and international trade:					
There are more increased and better trading links with other nations					1 2 3 4 5
Other economic facilitating factors?					

Can you tell me more about these economic factors and how they facilitate organised crime in the region?

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Geographical Factors

Scale:

1	2	3	4	5
Strongly Agree	Agree	Not Sure / Don't Know	Disagree	Strongly Disagree

Location:	Strongly Agree	Agree	Not Sure / Don't Know	Disagree	Strongly Disagree
The geographical location of Spain as a whole is ideal for organised crime activities	1	2	3	4	5
The Costa del Sol/Madrid/Catalua has an ideal geographical location for organised crime activities	1	2	3	4	5
Geographical characteristics					
In this region, there are certain geographical features that facilitate organised crime (e.g. the coast, the mountains, the forests etc.)	1	2	3	4	5
In this region, there are a number of important cities, which facilitate organised crime	1	2	3	4	5
The extension, number and nature of the airports, ports etc. in this region facilitate organised crime	1	2	3	4	5
Other geographical facilitating factors?					

Can you tell me more about these geographical factors and how they facilitate organised crime in the region?

Are there any other aspects / issues that you would like to mention that would inform my study?

Please indicate your personal details (profession, sex and place of work) in the box below (NB: this information is for analytical purposes only and will be kept strictly confidential):

Thank you very much for your assistance.
Jennifer Smith