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Organised Crime and the Corruption of Public Institutions in the United Kingdom: Implications for Policy and Practice¹

Sappho XENAKIS is RBUCE-UP Marie Curie Fellow at CESDIP. At CESDIP she is pursuing a two-year research project on international law enforcement co-operation against organised crime and political violence, which is funded jointly under the RBUCE-UP programme by the universities research hub Paris UniverSud and the European Union (Marie Curie Actions). Presented below is a policy paper that draws on findings from research carried out on the relationship between organised crime and corruption in the UK. Research leading to this paper has received funding from the European Union Seventh Framework Programme (FP7/2007-2013) under grant agreement No. 246556.

In the UK, prosecution rates for corrupt acts and perceived levels of corruption are both low by international comparison. An audit into the nature and extent of corruption in the UK, conducted by the non-governmental organisation Transparency International UK (TIUK) and published in 2011, however, concluded that the problem of corruption within the public sector, and of the risks posed by the relationship between corruption and organised crime more particularly, had been underestimated and insufficiently explored by official bodies and independent experts alike². A key concern motivating the audit was the potential impact upon the effectiveness of UK public bodies to counter corruption of major cuts to public sector funding that have been introduced nationally over the past two years. Alongside reviewing the types of corruption found within the National Health Service, social housing services, and public sector procurement practices, the report considered the challenges of corruption being experienced by different component bodies within the criminal justice system. As well as noting problems being faced by the police and the judiciary in combatting corruption, the report drew uncommon attention to the predicament of prisons. It was argued that prisons in Britain manifest significant vulnerabilities to corruption: the risk of non-prison officer staff becoming involved in corrupt acts; the risk that performance measurement targets for prison institutions stimulate demand for corruption (both amongst prison staff and between prison staff and inmates); and what is described as the risk of a « symbiotic relationship » forming between organised crime groups with imprisoned group members and corruption taking place within prisons.

With a view to contributing to an incipient debate about the way in which criminal justice policy might appropriately rise to the challenges set out by the TIUK report, this policy paper draws on an assessment of British, regional and international experiences of the problems of, and policies against, corruption and organised crime. The text below represents an attempt to help conceptualise the risks that could be posed by organised crime to UK public bodies through the use of corruption, to discuss factors that affect accurate assessment of the actual level of risk today, and to consider which counter-measures could be helpful to combatting the dual challenge of organised crime and corruption.

Conceptualising the potential challenges posed by organised crime to UK public bodies through the use of corruption

Official portrayals of the risk posed by organised crime to the public sector have predominantly focused on the impact of groups working in the black economy seeking to facilitate their operations by corrupting public officials through offering bribes, blackmailing, possibly threatening violence, and infiltrating public bodies³. Third-party individuals or organisations working primarily or substantially in the legal economy have also been acknowledged to play a role – whether wittingly or unwittingly – by transmitting information or money in or out of public bodies, and to and from organised criminal and corrupt networks. However, organised crime may also be perpetrated by groups that emerge from, and remain within the confines of, a public institution, where public servants have themselves instigated and are sustaining corruption and crime. Equally, the category of organised crime could be applied to the activities of unscrupulous private sector bodies operating in the legal economy but using illegal means to distort it, such as by offering bribes to well-placed officials in order to secure contracts, to defraud the public sector, and to either avoid prosecution or limit its potential reach and sanctions.

There appear to be three key ways in which the use of corruption by organised crime challenges UK bodies: by undermining *crime control*, by undermining *state control of public bodies*, and by undermining the *broader functional purpose of public bodies*. Public control of crime is challenged by the non-recording and mis-reporting of individual offences, and by the systematic provision of protection to organised illicit activities. Serious organised crimes pose immediate risks to health and lives, whether through the supply and use of weapons, drugs, or

¹ I am grateful for feedback on earlier versions of this paper provided by participants in a one-day seminar on « Prison Corruption » held in London in October 2012 and organised by the Centre for the Study of Corruption at the University of Sussex, and by the reviewers of *Questions Pénales*.

² MACAULAY T., 2011, *Corruption in the UK Part Two: Assessment of Key Sectors*, London, Transparency International UK.

³ The term « organised crime » refers to an association of individuals who come together for the purpose of carrying out acts which the state deems to constitute « serious crimes », with the level of organisation and duration of a group also being used to identify it as one engaged in organised crime. According to the British Home Office, around 6,000 organised crime groups presently target the UK for their operations, where the majority of groups are also based. Organised crime group participants are described as, characteristically, « opportunistic, lifetime offenders, who do not necessarily see prison as a bar to continuing criminality » (HOME OFFICE, 2012, *Local to Global: Reducing the Risk from Organised Crime*, London, Home Office).

other consumables, or through practices of extortion, blackmail, and protection, for example. Over the long-term, at an individual level, where the corruption of a public institution by organised crime has led to the infringement of an individual's rights, trust in the institution may be damaged (in a case, for example, where violent extortion rings have been protected by corrupt public employees). This, in turn, may weaken the ability of public bodies tasked with combatting organised crime and corruption to effectively carry out their work.

The use of corruption by organised crime undermines state control of public bodies by subverting accountable authority and the framework of regulations and rules that structure public bodies. Making them less accountable and more prone to human and material abuse, corruption leaves the public institution, and public sector more broadly, susceptible to significant material losses. Furthermore, failure to control organised crime groups risks cultivating locales where the state has less ability to effectively intervene or effectively manage the social, economic and political plight of such communities. In the case of prisons specifically, this could mean the risk of service provision being determined by organised crime groups. Any replication of intense forms of gang-led prisoner self-government, such as that which has been documented in the United States and is present in other prison environments around the world where practices of self-government by inmates are tolerated or exploited by authorities, certainly seems a remote prospect for the UK⁴. It nevertheless remains a possibility that the provision of security, for example, could on a smaller scale be similarly determined by organised crime groups with the collusion of prison officers, rather than by a prison service accountable to a democratic government. Such a situation can be self-reinforcing by inducing prisoners to join or work for organised crime groups responsible for dispensing such services.

The use of corruption by organised crime threatens the broader functional purpose of public bodies by increasing public cynicism towards the effectiveness of those bodies reducing public support for them. This is especially risky during times of increasing socio-economic discontent, when public support for more extremist politics and punitive laws may increase. Moreover, the discrediting impact of corruption on a public institution may be used as a reason for closing the institution or reducing its remit and transferring all or some of its responsibilities to the private sector. Although research has found that privatised service in prisons does not necessarily lead to poorer service provision – competition provided by private sector involvement can be perceived to have raised standards of management and con-

ditions across the board – the culture and expectations of private suppliers may be literally be entirely foreign, and accountability and standards may be lower⁵. Security safeguards are not simply jeopardised by the pressure to reduce costs, but also by the pressure of a 'payment by results' regime, the instigation of which may raise the risks of fraud and corruption as institutions strive to meet targets⁶.

Alternatively, the discrediting impact of corruption upon a public institution may lead to a political decision to increase nominal civilian oversight of the institution, potentially opening the door to groups pursuing criminal or deviant agendas and providing them with direct access to public power in ways that may enable them to attempt to distort due process, such as by subverting the fair allocation of works contracts and weakening public sector accountability and oversight. The current proximity of such risks have been illustrated by a scandal that accompanied the introduction of elected police commissioners in England and Wales in 2012, in which a police commissioner candidate was alleged to have received substantial sums from a US-based think-tank known to support the privatisation of public services⁷.

The severity of the threat

UK authorities have long perceived the use of corruption by organised crime to be a greater threat to the country when it takes place in other states with weaker authorities, where stronger relationships between the public sector and organised crime may have more severe and widespread repercussions. Indeed, the use of corruption by organised crime is more widely recognised to be a greater challenge to weaker states than to stronger states, such as the UK. One key area of anxiety that has related to risks emerging from the UK context has been the potential for convergence between organised crime groups and those involved in religious or politically-motivated violence, in which case the domestic risks associated with corruption would increase⁸. At present, however, there appears to be little evidence available of such relationships forming in the UK, and it is not even clear how much corruption within the public sector can reasonably be associated with organised crime group activities.

There are evidently limits to what is known about the challenge posed to British public bodies by the use of corruption by organised crime. One problem in at-

⁵ LIEBLING A., CREWE B., HULLEY S., 2011, Values and Practices in Public and Private Sector Prisons: A Summary of Key Findings from an Evaluation, *Prison Service Journal*, 196, 55-58; MILLS A., MEEK R., GOJKOVIC D., 2012, Partners, Guests or Competitors: Relationships between Criminal Justice and Third Sector Staff in Prisons, *Probation Journal*, 59, 4, 391-405.

⁶ PUDDICOMBE B., CORRY D., FOX C., ALBERTSON K., 2012, Payment by Results, *Criminal Justice Matters*, 89, 1, 46-48.

⁷ Is Police Candidate a Trojan Horse for Right-Wing American Think Tank?, *The Independent*, 22 October 2012.

⁸ HOME OFFICE, 2012.

tempting to answer the question of the severity of the threat posed is that it is only relatively recently that research and policy has sought to explore the relationship between organised crime and corruption in the country, so the exact dimensions of it remain unknown. Another limitation has been the narrow parameters of efforts to measure the threat posed. There have lately been greater efforts to treat organised crime and corruption as commonly inter-related problems in the UK⁹. These efforts have appeared to focus overwhelmingly on groups working within the black economy corrupting or otherwise collaborating with public sector employees, sometimes with the assistance of knowing or oblivious third-party mediators. At risk of receiving insufficient attention have been organised crimes and corruption perpetrated by groups working in the licit economy, wherein the value of the corrupt exchange and the associated cost to the public purse may be far higher. There are also well-known difficulties involved in researching such activities. In the case of corruption, for example, perceptions of corruption may be affected as much by direct experience as by local cultural attitudes towards issues of power and responsibility. This means that research across different institutions in different geographic locations is not necessarily directly comparable, nor may it even provide accurate representations of actual practice¹⁰.

Nevertheless, the challenge posed by the use of corruption by organised crime to British public bodies is believed to have risen in the wake of changes to the national socio-economic environment and, relatedly, from government policy priorities concerning retrenchment and private sector involvement in the public sector. On one hand, risks are thought to have intensified as a result of the socio-economic downturn experienced by the UK over recent months and years. In its 2012 strategy paper on organised crime, for example, the Home Office tentatively predicted the likelihood of an increased threat of organised crime groups attempting to use corruption – and, more particularly, to target prison staff and law enforcement in so doing – in order to facilitate criminal activities¹¹. This prediction seems to be related to a prior report by the Cabinet Office Strategy Unit stating that the economic downturn might exacerbate the risks of organised crime influencing public sector provision and services by being able to exploit the consequent financial vulnerabilities of individual public servants¹².

On the other hand, governments have increasingly demanded cuts in spending

⁹ XENAKIS S., 2012, Corruption and Organised Crime in the UK, in GOUNEV P., RUGGIERO V., (eds), *Corruption and Organised Crime in Europe: Illegal Partnerships*, London, Routledge, 189-200.

¹⁰ XENAKIS S., 2010, Pride and Prejudice: Comparative Corruption Research and the British Case, *Crime, Law and Social Change*, 54, 1, 39-61.

¹¹ HOME OFFICE, 2012, 13.

¹² CABINET OFFICE STRATEGY UNIT, 2009, *Extending Our Reach: A Comprehensive Approach to Tackling Serious Organised Crime*, London, Home Office.

⁴ PHILLIPS C., 2012, It Ain't Nothing Like America with the Bloods and the Crips: Gang Narratives Inside Two English Prisons, *Punishment & Society*, 14, 1, 51-68; BIRKBECK C., 2011, Imprisonment and Internment: Comparing Penal Institutions North and South, *Punishment & Society*, 13, 3, 307-332.

from a range of public bodies that has weakened networked and individual mechanisms of oversight, investigation, and prosecution of corruption. Plans have been made to merge the Office of Fair Trading and the Competition Commission into a new body: the Competition and Markets Authority. Responses to the Government's consultation process on the proposed merger indicated that those who used the system were largely sceptical about the reforms, with the loss of a highly-valued « second pair of eyes » in the two reviewing authorities being deemed particularly controversial¹³. HM Revenue and Customs has faced significant reductions of its senior staff, a move which, according to their union, would severely downgrade the ability of the organisation to combat complex tax avoidance and evasion. As regards the foreseen dissolution of the Financial Services Authority, the Treasury Committee warned in 2012 that the bodies subsequently expected to take over consumer protection might be even weaker and less accountable to parliament than their predecessor. And the budget of the Serious Fraud Office fell from £52 million in 2008 to £32 million in 2012¹⁴.

The experience of the primary national body tasked with controlling corruption within prisons has been similar. Although only established in 2008, just two years later the budget of the Corruption Prevention Unit (CPU) of the National Offender Management Service ('NOMS', the organisation responsible for the administration of the public prison service in England and Wales, for the management of contracts with private prisons, and for the running of the National Probation Service) was halved from around £700,000 to around £350,000, and its personnel was reduced from ten to five. In 2011, the Chief Executive of the Unit retired without being replaced, and the CPU became subsumed within the Security Directorate of NOMS as a national corruption prevention team. Whilst each prison has a local corruption prevention manager, who reports to regional corruption prevention managers, modes and levels of oversight and of co-operation with law enforcement are not uniform, and rather vary according to the location and status of the institution (whether public or private). Furthermore, recent years have seen the pressures of monitoring corrupt practices intensify as the ratio of prison officers to prisoners has significantly declined, as the number of prison officers has seen little growth since the mid-1990s, whilst inmate numbers have risen dramatically¹⁵.

Finally, there is concern that risks could be being heightened by the expansion of

private sector participation in the provision of public services. These risks are associated with the financial rationales driving private bodies that may lead them to attempt to subvert fair and proper processes and to maintain weaker oversight and accountability mechanisms (such as lower standards of vetting and training staff) than are characteristically expected to be in place in the public sector. Taking the example of private prisons in the US, for instance, institutional logics requiring consistently high occupancy rates have led private providers to seek to distort fair process accordingly, employing both legal, and illegal, means of doing so. In 2012, it was revealed that the Corrections Corporation of America had lobbied to take over the provision of imprisonment in 48 states in exchange for a contractual agreement from those states guaranteeing 90% occupancy of those prisons for the next twenty years¹⁶. Meanwhile, 2011 saw the sentencing of two Pennsylvanian judges who, after having played a part in closing the publicly run detention centre of their county in the early 2000s, had proceeded to systematically subvert the judicial process in exchange for bribes from profit-making juvenile detention centres, in order to supply them with a steady stream of children¹⁷.

As regards oversight and accountability, private businesses and civil society associations may be more vulnerable to hijacking or manipulation by crime groups due to weaker vetting, training and audit mechanisms. Controversies relating to the funding source of public organisations are likely to become more complex as public institutions grow more entwined with private and third sector bodies, such as through the appointment of publicly-elected police commissioners and the expansion of private and third sector involvement in the management and running of prisons. Not only can illegitimate or illegal practices committed at higher managerial levels from private and third sector bodies raise serious implications for the maintenance of due process throughout public systems of justice and law enforcement, they may also, crucially, risk provoking dispersed acts of corruption and crime lower down the institutional framework by fuelling cynicism and disaffection amongst staff.

Combating the dual challenge

In the effort to erect suitable measures to effectively tackle the challenges posed by organised crime to the public sector via corruption, lessons can be sought from other institutional and environmental settings. Yet the phenomena of corruption and organised crime and the means of effectively countering them are not necessarily comparable across different sectors and locations. For example, the hiring of women as a means of countering corruption in the workforce has attracted adherents amongst some police forces interna-

tionally: research has found female public servants less likely to accept bribes than their male counterparts, especially in societies in which bribery is already stigmatised, and this knowledge has led police forces in Mexico and Peru, for example, to hire more women with a view to lowering levels of corruption within these forces¹⁸. Within prisons, by contrast, the protracted contact typically experienced between inmates and prison officers negates the potential of an anti-corruption gender dividend; women are at least as likely as men to manifest susceptibility to the development of improper staff-inmate relationships that can lead to exploitation, blackmail and corruption¹⁹.

There may, nonetheless, be some lessons that are transferrable. At the level of individuals, whistleblower protection is an important prerequisite for the effectiveness of law enforcement action against organised crime, and appears to be equally valuable to countering corruption in various institutional settings. Rotation is another strategy that is valued internationally for its role in helping to reduce vulnerability towards corruption amongst front-line law enforcement officers, and is a strategy whose usefulness might also be replicable elsewhere in the criminal justice system.

At the institutional level, bodies with general rules regarding standards of integrity have been found to achieve better all-round compliance than those with long lists of specific rules²⁰. Regulation is also known to be more effectively policed by multiple agencies, and it is therefore more desirable for strategies to be formulated around networks of agencies rather than around just one or a few institutions, in order to maximise regulatory strength²¹. This is possibly self-evident, but has also been shown to be crucial in uncovering cases in which corruption or other illegality is being practiced by a group within a public sector institution itself.

At the political level, appreciation amongst legislators of the broader importance of controlling public sector corruption by organised crime is a prerequisite for effective counter-measures. Political

¹⁸ CHADHURI A., 2012, Gender and Corruption: A Survey of the Experimental Evidence, in SERRA D., WANTCHKON L., (eds), *New Advances in Experimental Research on Corruption*, Bingley, Emerald Group, 13-49 ; ESAREY J., CHRILLO G., forthcoming, Fairer Sex or Purity Myth? Corruption, Gender, and Institutional Context, *Politics and Gender* ; CORSIANOS M., 2009, *Policing and Gendered Justice: Examining the Possibilities*, Toronto, University of Toronto Press.

¹⁹ See, e.g., MARQUART J.W., BARNHILL M.B., BALSHAW-BIDDLE K., 2001, Fatal Attraction: An Analysis of Employee Boundary Violations in a Southern Prison System, 1995-1998, *Justice Quarterly*, 8, 4, 977-910 at 884, footnote 4 ; WORLEY R., MARQUART J.W., MULLINGS J.L., 2003, Prison Guard Predators: An Analysis of Inmates who Establish Inappropriate Relationships with Prison Staff, 1995-1998, *Deviant Behaviour*, 24, 2, 175-194.

²⁰ SEDDON T., 2010, Rethinking Prison Inspection: Regulating Institutions of Confinement, in QUIRK H., SEDDON T., SMITH G., (eds), *Regulation and Criminal Justice: Developing a New Framework for Research and Policy Development*, Cambridge, Cambridge University Press, 261-282.

²¹ *Ibid.*

¹³ <https://www.competitionpolicyinternational.com/the-competition-and-markets-authority-a-new-era-for-uk-competition-law-enforcement>.

¹⁴ XENAKIS S., 2012. See further DOIG A., LEVI M., 2013, A Case of Arrested Development? Delivering the UK National Fraud Strategy within Competing Policing Policy Priorities, *Public Money & Management*, 33, 2, 145-152.

¹⁵ See further LIEBLING A., PRICE D., SHEFER G., 2011, *The Prison Officer*, New York, Willan, 29-32.

¹⁶ FULCHER P.A., 2012, Hustle and Flow: Prison Privatisation Fuelling the Prison Industrial Complex, *Washington Law Journal*, 51, 3, 589-617.

¹⁷ *Ibid.*

support is vital to ensure that there is adequate financial backing to oversight infrastructure and control actions, and that there is joined-up policy-making and practice across different relevant issue areas, such as between the management of drug rehabilitation efforts and law enforcement-focused counter-narcotics policies.

More broadly, the implications of research into re-branding institutions may also be pertinent, which show that endeavours to re-brand an institution regarded as corrupt will only convince if action matches rhetoric²². For an institution seeking to reform, it needs to consider what will persuade its staff that the initiative is sincere, and will therefore need to bear in mind that staff will not only absorb the message that is targeted for them by leaders, but will also take into account rhetoric and behaviour from leaders that are not intended to influence their behaviour²³.

Counter-measures are not without their own potential risks, however, and in this regard there are two popular but problematic policy approaches that are repeatedly chosen to counter organised crime and corruption which deserve mention: supply-side strategies and awareness-raising strategies.

Supply-side strategies

One of the major limitations to supply-side strategies is the so-called « balloon effect » caused by law enforcement constraints. Pushing illicit trade into different fields and routes strategies may appear effective from one standpoint without practically being so, as the trade simply shifts around the pressure but is not eliminated. Strategies need to be innovative and institutionally broad in order to hope to manage this possibility. Another well-known weakness of supply-side strategies is that by restricting flow of traffic and expanding the criminalisation of substances their value is increased, and the value enhanced of the associated illicit business engaged in by organised crime groups. By contrast, legalisation and managed supply have been argued to be a more effective means of reducing the power of organised crime.

Supply-side strategies also tend to imply a neglect of the problem of demand for illicit goods and services, which is problematic even if demand does not inevitably provoke organised criminal trade. In the case of illicit drugs, a lack of attention to the effectiveness of counter-narcotics strategies on reducing problematic drug use, and an over-emphasis on interrupting the supply chain, has caused such strategies to

be widely criticised as failures. International trends in drug use over recent years suggest that where falling usage has occurred, this has been stimulated more by cultural change than law enforcement strategies, whilst in markets that have seen rising use (such as opiates), supply-side law enforcement strategies have been equally inconsequential²⁴. A related point is that a failure to adequately tie law enforcement strategies sufficiently tightly to the overall desired goals of such strategies may lead them to be self-defeating. In the case of the UK, for example, it has been suggested that law enforcement efforts to inhibit the sale of Class A drugs have led to a decline in the quality of drugs on the streets that has increased the potential lethality of such drugs for users as a result²⁵.

Awareness-raising strategies

At the European level, efforts to combat organised crime and to counter corruption have both emphasised the importance of awareness-raising, whether amongst the public or amongst particular target audiences, in order to strengthen resistance to related criminal and deviant acts²⁶. Yet – at least as regards awareness-raising about corruption in the case of South-East Europe, for instance – it has been argued to have had a strongly self-defeating effect. Despite dropping levels of individual experience of corruption, perceptions of the prevalence of corruption have remained high, apparently fuelled by the ubiquitous presence of debates about « the problem of corruption » within political and civil society discourse²⁷. In the case of organised crime, the potential for unnecessarily inflaming public concerns has also been recognised as potentially self-defeating, by undermining trust in the state's ability to deliver security and thereby reducing public faith in the value of reporting crimes.

Another problem related to awareness-raising, but also to the remit of counter-organised crime and counter-corruption initiatives more generally, is the degree to which they cohere with the values and practices of the society in which they are applied.

Political debate, scholarly research and opinion polling together provide useful indicators of the extent to which the premises underpinning law enforcement missions are accepted by the broader public or are believed to be counterproductive, whe-

ther in terms of financial or social costs. For example, opinion polling in the UK on the subject of illicit narcotics has shown that a majority of the public has adopted the position that those who use illegal drugs but who have not committed any other crime should not be criminalised, whilst a significant minority also believe that legalisation of drugs would lead to a decline in related illegal activities such as drugs smuggling and people trafficking. These are findings that raise questions about the enforceability of related statutes as much as about the effectiveness of awareness-raising efforts that strive to go against the tide of public opinion²⁸.

Conclusion

As this paper has sought to highlight, whilst the risks posed by corruption to public bodies in the UK are difficult to calibrate at this stage, they are conceivable at individual, structural, and functional levels of public institutions. These risks are potentially interrelated, as their impact may extend beyond the levels at which they originate; failure to effectively counter corruption may risk the life of the institution challenged, whilst high-level misconduct may undermine the credibility of counter-corruption drives lower down the institution's hierarchy. To ensure the effective management of these risks, counter strategies must not only seek to persuade employees of the sincerity and strength of their purpose throughout all levels of the public sector institution, but also gain and retain political support behind such efforts.

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²² ANHOLT S., 2009, *Places: Identity, Image and Reputation*, Basingstoke, Palgrave Macmillan. See further XENAKIS S., IVANOV K., 2013 (forthcoming), National Reputation and Agenda-Setting in International Anti-Corruption Efforts: The Case of Britain in the Balkans.

²³ XENAKIS S., IVANOV K., 2013.

²⁴ GLOBAL COMMISSION ON DRUGS POLICY (GCDP), 2011, *War on Drugs: Report of the Global Commission on Drugs Policy*, Rio de Janeiro, GCDP.

²⁵ UK DRUG POLICY COMMISSION (UKDPC), 2012, *A Fresh Approach to Drugs: The Final Report of the UK Drug Policy Commission*, London, UKDPC, 31.

²⁶ XENAKIS S., 2010, Organised Crime and Corruption in and around South-Eastern Europe: Trends and Counter-Efforts, *ELLAMEP Thesis*, 4/2010, Athens, Hellenic Foundation for European and Foreign Policy (ELIAMEP).

²⁷ *Ibid.*; XENAKIS S., 2010.

²⁸ XENAKIS S., 2012.