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ORGANIZED CRIME: THEORETICAL AND PRACTICAL PRINCIPLES OF COUNTERACTION

This article attempts to explain the origins of the concept of organized crime. Analyze the principles of combating this phenomenon.

Keywords: organized crime; crime; thieves in the law; law Rico; authority.

Здійснено аналіз концепцій щодо теоретичних і практичних проблем протидії організованій злочинності. Розкрито принципи боротьби з цим явищем.

Ключові слова: злочинність; організована злочинність; злочини в законі; закон Ріко; влада.

Осуществлен анализ концепций относительно теоретических и практических проблем противодействия организованной преступности. Раскрыты принципы борьбы с этим явлением.

Ключевые слова: преступность; организованная преступность; воры в законе; закон Рико; власть.

Topicality. Modern criminal situation in Ukraine is more complicated than those «turbulent» 90s when organized crime, which at that time only been raised and actually threatened national security. Today we can talk about leaving the international arena ethnic criminal groups, and the effectiveness of their criminal activity due to the close links with the diaspora where they use support and opportunities available listing of all local criminal groups and organizations.

Significant fact that cooperation criminal organizations in the implementation of the joint criminal business detrimental to all the country in which the process of this interaction.

These facts show that today in Ukraine there is activation of organized criminal groups, which have close ethnic, cultural (subcultural) or historical ties and engage in their criminal activities other nationalities (Ukrainian, Russian, etc.). In addition, these criminal groups being associated with the countries where they were born, educated or worked up a common network, which act beyond national borders. Using a common origin, language and customs, they can commit offenses in other countries and action against the police.

Recently, the trend is growing intensification of organized criminal groups that do not have built a stable and clear system. Thus, these groups organized to commit crimes for a certain period of time. Scientists and practices have noted that the organization of criminal activity occurs with help of the criminals that has advantages over traditional organized structures through flexibility, adaptability, responsiveness [1, c. 35].

The purpose of the article. To analyze the origins of the concept of «organized crime» and give a key characteristic features. Find the best ways of legislative support counteraction to this phenomenon.

The problems involved in organized crime such scientists as A.D. Doroshenko, M.G. Verbensky, V.A. Glushkov, N.O. Hutorova, I.M. Danyshyn, A.P. Zakalyuk, O.H. Kalman, A.N. Litvak, E.K. Marchuk, M.I. Miller, M.I. Panov, B.V. Romaniuk, I.K. Turkevych, M.I. Havronyuk, G.P. Pozhidayev.

The main material. The essential feature of Ukrainian organized crime, it is transnationalist, which refers to moving streams of information, money, physical objects, tangible or intangible assets across national boundaries. According to G.P. Zharovskoyi, this analysis allowed determination vydylyty four features that characterize transnational organized crime:

- 1) the organization;
- 2) continued involvement in criminal activity;
- 3) the existence of well-defined economic goals;
- 4) to achieve this goal associated with crossing the national boundaries [2, c. 112].

I.I. Klimentko gives the following examples of transnational organized crime. In the Baltic countries in the structure of organized crime in the first place is a racket, then smuggling carried out in two ways: a) the transit of alcohol and tobacco products from Western countries in the CIS; b) transit of oil products, nonferrous and rare metals from the CIS to the West. Third place goes to transit the stolen cars from Europe [3].

Ukrainian legislation today there is no clear definition of organized crime. Organized crime is often identified with the term «mafia» that are hierarchically organized groups of criminals who collectively and systematically engaged in criminal crafts. The term «mafia» was originally used only to refer to organized crime in Sicily. The etymology of the term of the Sicilian dialect is not clear, it is often translated as «protector, patron» When scientists understand only professional activities of criminals (gangsters), distinguishing it from the «labyrinth» (economic) crime. In life and in the media is often called «mafia» any groups of offenders with great power (in our country is a «bureaucratic mafia» or even «police mafia»). Large criminal organizations involved in criminal trades internationally, are relatively few.

For example, Chinese «triad». These organizations are flexible online system, the structure of which can vary depending on a particular crime or transaction. The word «triad» is borrowed from the sacred symbol of Chinese society – the sky, the earth, the man (triangle). Ethnic Chinese criminal organizations are very united, as not allowing third-party application. They are based in China, Hong Kong, Taiwan and elsewhere in Southeast Asia.

«Triad» have an extensive system in Western Europe, in Chinese communities in North America, the Far East of the Russian Federation. According to some estimates, in Hong Kong there are about 160 000 members of the «triad», belonging to 50 different organizations. Membership in the «triad» means an expression of a certain degree of confidence, and its members form a single working group designed to provide assistance to other members, even strangers.

Therefore, although the «triad» and have a formal structure that includes the «dragon head» and the state of these «experts» as inforsery and leaders, much of their criminal activity, usually carried by those members who are attracted to each individual case, within a flexible network system, which can vary depending on a particular criminal operation conducted.

Domestic and foreign criminologists unanimously emphasize the following key characteristics of organized crime:

- 1) long-term stability;
- 2) the desire to maximize profits;
- 3) planning their activities;
- 4) the division of labor, the differentiation of managers at various levels and performers – multidisciplinary;
- 5) create cash insurance reserves («obshchak») [4].

Modern organized crime is, in fact, a special branch of business – the economic activities of professional criminals aimed at meeting the antisocial and needs of ordinary citizens (production forbidden by the law of goods and services).

Instead internationally UN one of the strategic areas of crime prevention organized crime considers research of anti-corruption. As adopted in 1990 Eighth United Nations Congress on «Guidelines for prevention organized crime and combat it» expressly stated that «a necessary condition for the development of programs to prevent crime is to study the problems of corruption, its causes, nature, effects, relationship organized crime and measures to combat it» [5].

As noted in the materials Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in 1993, the phenomenon of organized crime is the material shape of the underground illegal enterprise economic system with the threat of physical force or using it, extortion, corruption. The report of the UN Secretary General «Impact of organized crime on society in general» in the second session of the Committee for the Prevention of Crime and Criminal Justice of the Economic and Social Council of the United Nations in April 1993 noted that the corruption of government officials has always been one of the means which preferred organized crime groups, part of their strategy and tactics, and which was given advantage over the use of open violence [6].

In Ukraine the next step to overcoming corruption was the adoption of anti-corruption laws, which declared the foundation of combating corruption in all places.

Thus, we see that organized crime – a criminal network interactions subjects of criminal activity, with great resources included in the redistribution of markets, mastering the new types of criminal activity has a greater professionalization. In this case, the criminal community, like taking care of the production and distribution of

illegal goods, providing services prohibited by resorting to violence and corruption, seeks to new areas of the economy, creating legitimate businesses and banks, improving their own organizational structures.

In domestic law responsible for organized crime provided for in Article 255 of the Criminal Code of Ukraine, including the following types of organized crime:

creation of a criminal organization to commit serious or particularly serious crime;

management such organization or participation, or participation in crimes exerted such an organization;

organization, management or promotion meeting (gathering) members of criminal organizations or organized groups to develop plans and conditions of the joint commission of offenses logistics crime or coordination of criminal organizations or associations organized groups.

However, November 5, 2014 a draft Law of Ukraine «On Amendments to Article 255 of the Criminal Code of Ukraine (establishing criminal liability for «thieves in law»)». Article 255 was supplemented ch. 2 «person occupying a higher position in the criminal hierarchy» for which the penalty of imprisonment for a term of seven to twelve years. And ch. 3 «actions specified in paragraph one of this article, if committed by a person who occupies a position above the criminal hierarchy», which provides for imprisonment for a term of ten to fifteen years or life imprisonment».

Also note was formed, which interprets the meaning persons matched takes up position in the criminal hierarchy («thief in law») as a person who is identified in accordance with the criminal world (criminal environment) specific rules of conduct in all forms of organizing and/or manages thieves peace (has authority to members of the thieves' world, giving them tasks/assignments that contribute to the objectives of the criminal world, organized thieves parsing, is involved in the assembly (gathering) «thieves in law», etc.).

During understand criminal behavior of persons acting in accordance with established, recognized by the special rules of behavior caused by social bonds between all members of the group, their common aspirations, interests, mutual aid, which aims to intimidation, threats, coercion, violence, conditions of confidentiality, thieves parsing (dispute resolution through threats, coercion, violence, intimidation or other illegal actions), commit crimes or incitement to

commit crimes involving other persons, including minors in criminal acts to obtain profit members about connection or by others [7].

Meanwhile, Georgia lawmakers were among the first responsibility of regulating the criminal authorities, as Article 223 of the Criminal Code of Georgia «creating or directing illegal armed formation or participation in it» provides an objective way, which consists of the following:

creating or directing illegal armed formation (militia, association, or other group detachment), which provides for imprisonment of five to ten years;

participation in illegal armed groups, punishable by imprisonment for up to five years or imprisonment for up to six months, or imprisonment for up to five years [8].

In turn, in 1970 Congress passed the decision to adopt serious steps to combat organized crime. The next step was the introduction of the Law against Organized Crime and Corruption (Law Rico). This law makes it possible to carry out the prosecution of criminal organizations as such, not just individuals who have committed certain crimes. Investigation and prosecution of «group», which serves as the object is «organized criminal group or organization».

Law against Organized Crime and Corruption (RICO Act) allows you to cancel the release from liability for the course of years – despite the effect of conventional statute of limitations (usually 5 years), and allows the use of reduced crew with representatives of law enforcement agencies at the federal level, state and local level [9].

Of particular note is the fact that cooperation criminal organizations in the implementation of the joint criminal business detrimental to all countries that are affected by this interaction process. Each of them can claim to be a country affected by foreign criminal organizations.

The US Department of Justice is focusing its resources on six key areas that are key to the government in the fight against organized crime:

- 1) organized crime;
- 2) money laundering and asset stripping;
- 3) corruption;
- 4) drug trafficking;
- 5) human trafficking;
- 6) intellectual property.

The interpretation of modern organized crime as primarily economic phenomenon has long been reflected in its official definitions. For example, in 1968 US law characterizes organized crime as «illegal activities of members of highly organized and disciplined association dedicated to the supply of goods prohibited by law or the provision of services to law» And in 1993 the UN Secretary General to report the influence of organized crime on society defined as the activities of organized crime criminals together on an economic basis for providing illegal services and goods or the provision of legal services and goods in illegal form [10].

Model of a criminal organization as a system of secret contracts with little or no violence is abstract. Real organized crime committed to this ideal, but it is not always.

«At the heart of organized crime is the social order», wrote American criminologist R. Klark. Mafia criminal activity – a special kind of crimes, «crimes committed by mutual agreement, the crimes which the public wants to consume» [11, с. 86].

This means that organized crime is made only when and where and when there is objective and stable high demand for illicit goods and services. For example, widespread criminal racket in the 1990s caused high demand business to protect the atmosphere weak protection of property rights, rampant «ordinary» crime, low efficiency of internal affairs, no generally recognized rules of competition.

The consequences of organized criminal groups to establish a system of illegal entry and stay of foreigners in Ukraine are also seen in the plane to prevent the spreading in our state of radical ideas and ideologies, import extremism and terrorism as components toolkit implementing these ideas and ideologies.

In increasing the number of organized crime groups formed on ethnic basis, play a significant role intensive immigration, which is a factor of a set of those negative impact on the crime situation in Ukraine.

In Ukraine, the fight against organized crime involved in a number of special bodies using tried and tested techniques for years. In its activities, special units to combat organized crime at different times and in different regions using unique methods of operational activities and investigative work before extrinsic enforcement bodies, such as criminal intelligence; technical intelligence; strategic analysis; driving operational developments fixed permanent groups (so-called fours); investigators access to operational developments as

consultants; use your own reaction units («Falcon»), including in standby around the clock. Special Forces Boz Internal Affairs of Ukraine is also probably the only structure in the Interior Ministry, which has received an electronic database of operational information («Scorpion») and the procedure of getting adjusted to the electronic arrays and their use (operation period over 25 years).

Conclusions. In summary, we note that organized crime has a historical past, which makes the process quite hard to eradicate this phenomenon. We believe that the increased responsibility for crimes exerted by organized criminal groups and organizations, including amendments relating to responsibility «thieves in law» is an effective tool in overcoming organized crime. Certain areas may be to create an efficient system of public and state control of law enforcement in combating organized crime and organized crime prevention systems, adapted to local conditions. In addition, the need for national and international ways to combat organized crime.

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