

SOME ASPECTS OF COMBATING TRANSNATIONAL ORGANIZED CRIME

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DOI: <https://doi.org/10.61345/1339-7915.2024.2.9>

Annotation. The article is devoted to the study of the problem of transnational organized crime, which is a relevant and negative manifestation of public life not only in Ukraine but also in most foreign countries. Crime is a stable phenomenon and inseparable from human society, and it should be noted that organized crime is stable in its essence and structure, but variable depending on the requirements of time. At present, Ukraine is facing the emergence of a fundamentally new form of transnational organized crime, which is a crime against national security. In particular, the military-political situation in our country, which is associated with the military aggression of the Russian Federation, contributes to the intensification of the movement of weapons, explosives and other military items, as well as the recruitment of citizens to participate in illegal state activities.

The article examines the problem of combating transnational crime and suggests ways to counteract this type of crime. At the national level, combating this type of crime requires coordination of law enforcement agencies, formation of joint operational and investigative teams and think tanks. There is also a need to improve the legal framework for combating this phenomenon, which should take into account existing international standards and the implementation of the UN Convention against Transnational Organized Crime into Ukrainian legislation. It is determined that in the current socio-political environment, this problem is actually becoming a matter of national security of Ukraine. According to the Strategy of National Security and the Fight against Organized Crime, the search for new ways and answers to the challenges and prevention of transnational organized crime and corruption in the context of military operations, aggression and internal instability necessitates the study of an international mechanism of protection against such extremely dangerous actions. The author believes that it is advisable for Ukrainian law enforcement officers to study the experience of leading foreign organizations so that they have a real opportunity to work proactively in preventing corruption, countering terrorism and other segments of transnational organized crime.

Key words: organized crime, criminal offenses, transnational crime, counteraction, prevention.

1. Introduction.

Transnational organized crime is an urgent problem of our time, which is a clear manifestation of the truth that the problem of crime is a global problem that cannot be solved at the level of a single state, law enforcement agency or legislative act. At the same time, the problem of combating transnational organized crime in Ukraine is no less urgent. Understanding this fact should be the basis for a global restructuring of the organizational framework for combating this negative phenomenon.

2. Analysis of scientific publications.

The relevance of the proposed topic is due to the problems of spreading and combating transnational crime. The works of such Ukrainian scholars as O. Busol, P. Yepryntsev, G. Zharovska, I. Pshenychnyi, B. Romaniuk, V. Sevruk, I. Servetskyi, O.Y. Shostko, V.P. Shelomentsev and others, who have created an appropriate scientific and practical basis for countering this criminal segment. The works of specialists

clearly reflect the idea that the problems of counteracting the destructive impact of organized crime on the world order are global in nature and require their prompt resolution.

3. The purpose of the work.

The purpose of the article is to study the role, problematic aspects and areas for improvement of the organization of counteraction to transnational organized crime, which is dictated by the realities of the current socio-political and criminogenic situation in Ukraine.

4. Review and discussion. In recent years, a fundamentally new economic and political situation has emerged in Ukraine, which has resulted in an increase in criminal activity on a transnational scale, and this requires further reflection on the issues of combating transnational organized crime. It is advisable to reveal the definition of the concept of "transnational crime". Thus, I.V. Pshenychnyi understands this concept as a form of international activity of organized criminal groups or organizations using various methods, including coercive methods, and prohibited goods and services. At the same time, such activities should go beyond the borders of one country [1, p. 11]. G.P. Zharovska notes that among the main features of transnational organized crime are high profits and constant increase in income; global scale of criminal activity, its constant and diverse nature; identity with the activities of the largest legal corporations; penetration into the authorities and governance of states; rapid adaptation to counteraction of law enforcement agencies; social control [2, p. 142-143].

It is a complex systemic formation with an internal hierarchical structure and distribution of roles, a high level of interaction and controllability, intra-network obligations, systems of own security and information acquisition, mechanisms for protecting investments [3, p. 294]. The tactics of transnational organized crime primarily involve the desire to create alliances with local criminals, especially ethnic criminals, so in Ukraine there is a tandem of mutually beneficial alliances between transnational and domestic organized criminal groups, which means gaining economic and political influence [4, p. 161].

Crimes committed by organized criminal associations are the most dangerous of all types of group unlawful acts and occupy a leading position in the statistics of group crime [5, p. 289].

At the same time, the most attractive for criminal structures are such areas of activity as terrorist, economic, general criminal activities: counterfeiting money; legalization of proceeds of crime; illegal drug trafficking; activities related to deliberate and fictitious bankruptcy; illegal arms trafficking; illegal export abroad and exploitation of people, criminal hacking (cybercrime). But, a special specific activity of organized crime in Ukraine is the close interaction of organized As O.Y. Busol and B.V. Romaniuk aptly note, "organized crime has reached its professional level, has become disguised, echeloned, firmly rooted in government structures, in particular in law enforcement, and has secured protection, and now operates openly, boldly, through deep corruption ties. If at first, organized crime was engaged in the accumulation of capital, then - striving for power, today it practically governs the state" [7]. At the same time, it should be understood that Ukraine is currently facing the emergence of a fundamentally new form of transnational organized crime, which is a crime against national security. In particular, the military-political situation in our country, which is associated with the military aggression of the Russian Federation, contributes to the intensification of the movement of weapons, explosives, and other military items, as well as the recruitment of citizens to participate in illegal state activities.

As we understand that crime is a stable phenomenon and inseparable from human society, we should note that organized crime is stable in its essence and structure, but it changes depending on the requirements of the time. Classical groups of the past had a pyramid structure, with the organizer and leader of the organized criminal group at the top, followed by centurions, then brigadiers, and ordinary fighters at the bottom of the pyramid. Thus, having tracked one fighter, it was possible to gradually follow the chain to the organizer. Nowadays, organized groups have a

structure of beehives, which are often not connected to each other. The connections between these cells are formed chaotically, the combinations can be the most unexpected, and there seems to be no general coordination center. This is where the viability of modern organized crime groups lies. The segregation of one cell does not lead to the death of the entire organism, because it is extremely difficult to trace further connections [5, p. 289].

It should be noted that transnational organized crime is the most dangerous form of criminal activity that threatens the social development of humanity as a whole [8, p. 322]. At the same time, recent wartime events in Ukraine show that law enforcement agencies are late in responding to new threats, which requires establishing work with obtaining information, blocking the channels of supply of finance, weapons, and printed materials of an anti-state nature. These measures require coordination of law enforcement agencies with the Security Service of Ukraine, tax authorities, military intelligence and counterintelligence agencies, customs and border guards [9, p. 13]. In addition, combating organized crime requires coordinated actions of international cooperation in law enforcement [8, p. 322].

The authors believe that in modern historical formations, the process of combating transnational organized crime can be presented as the activity of law enforcement agencies regulated by law and aimed at preventing the detection and suppression of transnational crimes. Article 5 of the Law of Ukraine "On the Organizational and Legal Framework for Combating Organized Crime" defines the system of bodies that combat this type of crime: the Coordination Committee for Combating Corruption and Organized Crime under the President of Ukraine, special units for combating organized crime of the Ministry of Internal Affairs (hereinafter - MIA) of Ukraine, special units for combating corruption and organized crime of the Security Service of Ukraine (hereinafter - SSU) [10]. At the same time, the special unit of the Ministry of Internal Affairs of Ukraine that was responsible for countering and combating organized crime was liquidated. The massive amount of information on the activities of organized criminal groups and criminal organizations, including those with international ties, was completely lost. And the Department of Strategic Investigations, which was created with a great delay and in a half-hearted manner within the National Police system, which is engaged in the fight against organized crime, has proved ineffective, as its units operate only in regional centers and are not subordinate to the heads of the National Police in the regions, so there is no reason to talk about interaction with other units on the ground [4, p. 180]. In addition, given that this unit recruits mainly criminal investigation officers, the direction of their activities is already clear, and as O. Dotsenko notes, there are fears that the entire system of preventing organized crime will be reduced to general criminal crime again [11, p. 113].

We support the opinion of G.P. Zharovskaya, who in turn agrees with the position of V.S. Ovchinsky that "the threat posed by transnational organized crime can only be eliminated if law enforcement agencies are as resourceful, flexible and cooperative as the criminal organizations themselves. In particular, to succeed, they need to be more creative in using existing and new bilateral and multilateral legal mechanisms, and activities at the national level need to be the same or harmonized to ensure that law enforcement officials are as mobile and as effective as the criminals themselves" [12, p. 476]. At the national level, combating this type of crime requires coordination of law enforcement agencies, the formation of joint operational and investigative teams and analytical centers. There is also a need to improve the legal framework for combating this phenomenon, which should take into account existing international standards and the implementation of the UN Convention against Transnational Organized Crime in Ukrainian legislation.

An analysis of international experience in fighting crime shows that in the current environment, criminal manifestations pose a real threat to democratic development and national security in most countries. According to the Strategy of National Security and the Fight against Organized Crime, the search for new ways and answers to the challenges and prevention of transnational organized crime and corruption in the context of hostilities, aggression and internal instability leads to the study of the international mechanism of protection against such extremely dangerous actions [13, p. 700].

The experience of the US legislation providing for responsibility for fighting organized crime is interesting. The relevant functions are assigned to law enforcement agencies at all levels: federal, state and local. However, the FBI should be considered the main agency in the fight against organized

crime. The structure of the FBI's regional offices is based on linear specialization. Most regional agencies have departments for investigating particularly dangerous crimes. In addition, the FBI has well-trained and equipped special forces units for conducting power operations to apprehend armed criminals. An interesting organizational and managerial solution to strengthen the interaction of various law enforcement agencies in the fight against organized crime is the creation of specialized "strike forces". Their tasks include: fighting corruption; practical coordination of efforts and capabilities of all state institutions in combating organized crime; overcoming interagency barriers and contradictions; creating the most favorable conditions for quick resolution of any problems arising during investigations. It should be noted that the task of the "strike forces" is not to coordinate interagency actions in the fight against organized crime in general (as, for example, the Coordination Committee in Ukraine), but to eliminate specific organized criminal groups. Therefore, the main form of their work is not holding meetings, but practical operational and investigative activities [14, p. 37]. In the UK, since April 1, 2006, the Serious Organized Crime Agency has been operating to combat the most dangerous form of organized crime, whose priority areas of activity are to increase the amount of returned funds obtained illegally as a result of solved criminal cases; increase the threat to the activities of criminal organizations; introduce new ways to combat organized crime [15, p. 180].

It should be noted that the "professional" activities of criminal organizations often involve a set of interrelated criminal offenses, which may often involve certain individuals and organizations that are under investigation by different agencies for separate crimes. Despite the legal interfaces that allow agencies to exchange information, a number of countries have mechanisms in place to help agencies cooperate directly in the investigation of crimes through joint investigative teams [16, p. 97]. In the author's opinion, it is advisable for Ukrainian law enforcement agencies to study the experience of leading foreign organizations so that they have a real opportunity to work proactively in preventing corruption, countering terrorism and other segments of transnational organized crime. The above measures are certainly not exhaustive, but they outline the most promising areas of combating transnational organized crime that should be implemented today to prevent further development of this form of crime in Ukraine.

5. Conclusion.

The situation with the development of transnational organized crime requires that the organizational system of law enforcement agencies undergo a radical transformation based on the best practices that have already proven their effectiveness, as well as in the direction of increasing the professionalism and responsibility of law enforcement officers involved in this fight. At the national level, combating this type of crime requires coordination of law enforcement agencies, the formation of joint operational and investigative teams and analytical centers.

References:

1. Pshenychnyi I.V. Organized transnational crime and the role of law enforcement agencies in countering it: PhD thesis. Dissertation... kand: 12.00.08. Kyiv, 2000. 16 p. [in Ukrainian].
2. Zharovska H.P. Transnational organized crime in Ukraine: phenomenon, determination, counteraction: monograph, Chernivtsi: Chernivtsi National University, 2018. 568 p. [in Ukrainian].
3. Globalization as a factor of qualitative changes in the organized criminal environment. Journal of Kyiv University of Law. № 13, 2013. p. 292–296. [in Ukrainian].
4. Organized crime in Ukraine: phenomenon, determination, prevention: a monograph. Odesa: Yurydyka Publishing House, 2023. 560 p. [in Ukrainian].
5. Sevruk V. Counteraction of the National Police of Ukraine to crimes committed by organized groups and criminal organizations formed on an ethnic basis. Entrepreneurship, economy and law. B. 2, 2017. p. 288-293. [in Ukrainian].

6. The state of organized crime and counteraction to it on the territory of Ukraine in 2020 (compared with statistics for 2016-2019). URL: <http://www.baganets.com/blogs-baganets/stan-organ-zovano-zlochinnost-ta-protid-.html> (accessed 03.06.2024). [in Ukrainian].
7. Busol O.Y., Romanyuk B.V. Organized crime in Ukraine: from primitivism to professional sophistication (resuscitation of a forgotten problem that has acquired a refined appearance). URL: <https://yvu.com.ua/organizovana-zlochynnist-v-ukrayini-vid-prymityvizmu-do-profesijnoyi-vytonchenosti-reanimatsiya-zabutoyi-problemy-yaka-nabula-rafinovanogo-vyglyadu/> (accessed 03.06.2024). [in Ukrainian].
8. Shostko O.Y. Counteraction to Organized Crime in European Countries: Monograph. Kharkiv: Pravo, 2009. 400 p. [in Ukrainian].
9. Perspective directions of counteraction to transnational organized crime in Ukraine. Fight against organized crime and corruption (theory and practice). B. №1(32), 2014. p. 11-16. [in Ukrainian].
10. On the organizational and legal framework for combating organized crime: Law of 30 June. 1993, No. 3341-XII URL: <https://zakon.rada.gov.ua/laws/show/3341-12#Text> (accessed 03.06.2024). [in Ukrainian].
11. Dotsenko O.S. Modern system of subjects of counteraction to organized crime in Ukraine. Legal scientific journal, 2019. № 4. p. 111–115. [in Ukrainian].
12. Organizational aspects of combating transnational organized crime in Ukraine. Actual Problems of State and Law, 2014. p. 475–481. [in Ukrainian].
13. Foreign experience in preventing criminal offenses committed by organized groups. Legal Scientific Journal, 2021. № 4. p. 698–701. [in Ukrainian].
14. Don. R. Harries Basic Elements of Intelligence. A Manual of Theory, Structure and Procedures for Use by Law Enforcement Agencies Against Organized Crime. LEAA, Department of Justice, Wash., D.C., 2021. P. 35–42.
15. Shostko Y.O. Analysis of the effectiveness of the criminal justice system in the field of combating organized crime in some European countries. Problems of Legality, 2009. № 1. P. 176–186. [in Ukrainian].
16. Makarenko N.K. Organized and professional crime in Ukraine: interdependence and mutual influence. Legal Journal of the National Academy of Internal Affairs, 2016. № 2(12). P. 94–101. [in Ukrainian].

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