

# SPECIFIC FEATURES OF CRIMINAL LAW CHARACTERISTICS OF ORGANIZED CRIME

Sergey A Voronin, Peoples' Friendship University of Russia

## ABSTRACT

*Considering the relevance of studying the peculiarities of criminal-legal characteristics of organized crime, it should be noted that, due to real threats from powerful criminal groups in the 60-ies of the last century, the Federal Bureau of investigation, the U.S. gave the characteristics of an organized criminal group as any group of persons having established kind of formalized structure whose main purpose seems to be receiving proceeds from unlawful activities and which maintains its position through use of violence and threats of violence, as well as through the development of corrupt relationships with public officials, extortion and bribery, have, as a rule, the impact on the population of a certain territory until the country as a whole. In Russian criminal law organized crime is considered as a special form of complicity. In part 3 of article 35 of the criminal code provide a definition of an organized group. This is a stable group of persons (two or more people) who combined beforehand to commit one or more crimes. The main feature of this is its sustainability. In a General sense, sustainability refers to the desire of enterprises to self-preservation, the ability to withstand impact from the outside, preserving its internal structure and inherent relationships of the constituent elements (in this case group members). The penal code does not give a specific definition of the term "sustainability". In the legal literature also has not developed a unified understanding of this characteristic of an organized group. Litigation, however, highlights a number of specific characteristics, indicating the stability of the group. The paper proposes a direct solution to the problem.*

**Keywords:** Organized Crime Group, Punishment, Criminal Law, Migration, Statistical Fundamentals, Socio-Economic Nature.

## INTRODUCTION

Given the importance of universal preventive fight against organized crime in the last decades of the 20<sup>th</sup> century organized crime at the transnational level and the intensification of organized crime in terrorist form, to combat it joined the United Nations, which at the end of the last century, established the United Nations Office on drugs and crime (UNODC), including the UN international drug control programme (UNDCP) and the Centre for international crime prevention (CICP), Interregional research Institute of United Nations on matters of crime and justice (UNICRI), which provides for the collection, analysis and dissemination of information, conducts scientific research and implements projects of technical cooperation and other specialized organizations of the United Nations. Among the impressive list of instruments of international law, published by the UN, it should be noted the Convention against transnational organized crime (The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances), the Convention against illicit traffic in narcotic drugs and psychotropic substances (The UN Convention against Transnational Organized Crime), the Convention against corruption

(The UN Convention Against Corruption), the Global plan of action of the UN against human trafficking (UN Global Action Plan to Combat Trafficking in Human Beings) and the International Convention for the suppression of acts of nuclear terrorism (International Convention for the Suppression of Acts of Nuclear Terrorism).

Organized crime is extremely complicated mechanism, a special legal phenomenon with a specific country and professional criteria. Therefore, there is an extensive variety of different areas and approaches to fixing its main informative structural elements in the legal definitions (normative-doctrinal definitions. Such an impressive number of definitions due to the fact that no single definition can encompass all the major aspects of organized crime, because it is unlikely to cover the diversity of categories such crime, taking into account existing between economic, regional and ethnic differences (Dolgovoy, 2010).

## LITERATURE REVIEW

As pointed out by Herbert and Tritt (1984), the first attempt to characterize the concept of organized crime was made in America in the 1950s and 1960s, "when the committees of Congress found evidence of the existence of a secret criminal society or a cartel with the code name "the Mafia" or "Cosa Nostra".

The legal literature of the modern period highlights several typologies of approaches to the definition of organized crime. Dolgov has specified the following main features, which the Russian scientists put in the basis of this definition (Dolgovoy, 2010):

- The cohesion of the members of the organization, reflected in the establishment and operation of criminal organisations (Dolgova & Dyakova, 1996).
- Mass, the prevalence of established criminal communities.

On this basis, Dolgov (2010) gives the following definition (which is hard not to agree): organized crime is a complex system of organized criminal groups, their relations and activities (Karabanov & Melkin, 2010).

However, it is important to note the contents of several publications in the scientific schools of NRU HSE. In particular, in the works of Ivanova (2002), among other legal issues discusses the accountability of transnational corporations, international organizations and States who, through inaction, contribute to the activities of criminal formations of the inter-state level (Ivanov, 2015; Ivanov, 2002; Ivanov, 2013; Ivanov et al., 2015).

In turn, Berzin (Berzin, 2012a; Berzin, 2013; Berzin, 2010; Berzin, 2012b) argues the similarities and differences of the collective forces of the criminal activities (organized groups, criminal Association, criminal organization), summarizes the evolutionary features of legal technology developments of Russian terminology in the field of organized crime, the rationale, theoretical and methodological basis of the study of organized crime.

It is also worth noting the thesis of Kleimenov (Kleymenov, 2012; Kleimenov & Kleymenov, 2015; Shatalov, 2015) about the modern features of foreign organized crime, as well as about important aspects of the latency of the considered collective phenomena of the criminal community.

Considering the previously protected the dissertation on a topic related to the relevant features of criminal law characteristics of organized crime, it is appropriate to point out the impressive work carried out by Agapov (2013), which outlined some of the ways and means of addressing criminal-legal and criminological problems of combating organized crime:

- Change articles 33 and 35 of the criminal code in order to clarify and distinguish between the "organized group" and "criminal Association" with the clarification of the structural basis of community and the unifying concepts of the community in articles 35 and 210 of the criminal code.
- Recognition of varieties of an organized group, illegal armed formation (article 208 of the criminal code) and non-profit organization encroaching on the personality and rights of citizens (article 239 of the criminal code).
- Legislative recognition of the power of the theory of qualification of crimes of that person in an organized group or criminal community, regardless of executable role, be the perpetrators of the crimes committed by this organized group or criminal community.
- The introduction to Chapter 8 of the criminal code designs perform special tasks in order to prevent any disclosure of the activities of an organized group (community) as the circumstances, which exclude criminality, etc. (Kazakova, 2013).

In the work of Nafikov (2013) a practical example of large cities of Tatarstan the proposal:

- By virtue of the interdependence of international and domestic law on criminal punishment observantines as a means of countering organized crime are proposed to align with the UN Convention against transnational organized crime sanctions of the crimes provided by part 2 of article 142, part 2 of article 185, part 3 of article 256, part 2, article 258, part 2 of article 326 of the criminal code, increasing the maximum sentence to 4 years imprisonment.
- Due to the lack of criminal-law protection of public relations in the economic sphere and in the field of public security proposed to Supplement article 173.1, 183, 195-197, 199.2, 205.1 of the criminal code a separate qualifying signs of a crime by an organized group with the definition of sanctions, which correspond to the international legal obligations of Russia.
- To introduce in work of law-enforcement bodies of territorial indicators of high corruption and shadow economy of the territories with the definition of the Federal government, which, among other powers, it remotely assesses the level of corruption and the shadow economy in each subject of the Russian Federation and municipality on the basis of complex socio-economic and other indicators.
- To require the compulsory presentation in the EGRUL (unified state register) of documents of title in respect of office premises and denote the corresponding administrative responsibility of the applicant for providing false information to the Federal service for state registration; etc.

In turn, Saleev (2013) a practical example of the work of the internal Affairs bodies of Kyrgyzstan argued the following recommendations to the national legislation:

- To add to article 4 of the Law of the Kyrgyz Republic "About operational search activities" the principle of aggressiveness (efficiency) actions of entities in the OSA.
- To supplement the law on OSA activities of the hot pursuit fled from the scene the suspect and the organization of the ambush with the purpose of their detention.
- Add to article 21 of the Law on OSA incentives spies: improve the conditions of detention in a correctional facility, if the confidant convicted in connection with the

involuntary crime when performing operational tasks at the izoblechenie a criminal organization, to make representations on early release or commutation of mode of punishment, etc.

The analysis of these works shows the lack or insufficient development of the contemporary factors, including:

- Social and economic consequences of combating money laundering and countering the financing of terrorism in developing economies.
- The relationship of organized crime with information and efficiency of public services.
- Use the model of internet governance in the field of organized crime.
- Civil society initiatives against organized crime in the framework of anti-corruption policy of the state.
- Event information warfare manifestations of organized crime on the internet etc.

## MATERIALS AND METHODS

Problem, usually, are the disadvantages, the disadvantage that discrepancies in desired and actual state of the object of study, which should be minimized. Identification of legal issues allows setting the gap in theory and practice, which needs to be addressed through appropriate research.

In this regard, it should be noted that with the purpose of effectively combating organized crime and ensuring the constitutional guarantees of citizens of Russia (Constitution of the Russian Federation) developed and implemented a variety of doctrinal documents and normative legal acts, among which should specify: the national security Strategy of Russian Federation until 2020 (Decree of the President of the Russian Federation of 06.06.2010 N 690), the Concept of counter-terrorism (The Concept of Counteracting Terrorism in the Russian Federation), penal code (The Criminal Code of the Russian Federation), the Federal law "On security" (Federal Law of 28.12.2010 No. 390-FZ), etc. In addition, it is worth to emphasize the fact that under the provisions of the criminal code of the Russian Federation more than 130 times used construction organized crime and related criminal manifestations in the organizational criminal activities.

However, the judicial statistics reflect the presence of the relevant issues in the enforcement of specified design. So according to the Judicial Department of the armed forces in 2015, 103556 committed the crime group (an organized group–5847 crime). In 2014, respectively–97697 (4694), in 2013–104737 (4440), 2012–116296 (4471) and in 2011–132626 (5005). That is, statistics shows the volatility of the identification of organized criminal groups with their significant growth in 2015.

Thus, the Supervisory authority in 2015 from the 52 complaints reviewed in the sentences under article 208 to 210 of the criminal code (as part of banditry and criminal organizations) cancelled 12 convictions, changed 10. Accordingly, in 2014, of the 35 considered in the Supervisory court cancelled changed 3 and 4 a conviction under article 208 to 210 of the criminal code. In 2013, 46 cancelled 0 changed 8 convictions (Information of the Judicial Department under the RF Armed Forces).

Thus, these data confirm the presence of the law enforcement structures of organized crime and related criminal actions that logically implies the need to continuously study relevant features of criminal law characteristics of organized crime.

## RESULTS AND DISCUSSION

In the Russian Federation organized crime no doubt is extremely dangerous phenomenon, which, unfortunately, our country does not meet an adequate response from the state. The existence of organized crime in Russia was confirmed in the early 80s by members of Institute of MIA of the USSR (all-Union Institute for studying reasons and developing measures of crime prevention); since criminological studies have established that simultaneously with the development of the cooperative movement was initiated mechanisms of legalization of the "shadow economy". Mode free prices attracted the active attention of the criminal environment and in that time has spread quite rare hitherto such crimes as illegal deprivation of liberty, extortion, kidnapping with ransom (Dolgova & Dyakova, 1996).

Common available data indicate that annual income from organized criminal activities is: up to \$300 billion from drug trafficking; to \$12 billion from flooding, toxic and other hazardous wastes; about 10 billion dollars from the theft of vehicles in the US and Europe; approximately \$8 billion from the illegal movement of migrants across borders; about a billion dollars from illegal use of intellectual property through piracy. The harm from corruption, initiated by criminal gangs, is estimated at \$600 billion, which exceeds 1% of global gross domestic product. This damage determines the slowdown in economic growth, reduction in investment flows and lower profits. For example, according to the European Bank for reconstruction and development, business entities those do business in Russia, withdrawn from 5 percent to 8 percent annual return on bribes (Zhvakina, 2002).

According to Rosstat (Information of the Central Statistical Database of Rosstat) the proportion of group crime among the crimes reported from 2010 to 2015 was approximately 6 percent. In addition, each fifth crime in the group were committed by an organized group or criminal community (the share for this period amounted to criminal group from 13 to 18%), which indicates the presence of a security threat to the country's economy. In the second section of this work focused attention on the fact that the data of the Judicial Department confirm that there is a problem of law enforcement structures of organized crime and related criminal actions that logically implies the need to continuously study relevant features of criminal law characteristics of organized crime.

Based on the above aspects of the activities of criminal and legal fight against organized crime should be considered as a universal problem requiring an integrated effort of all state bodies, participants of property turnover and the subjects of national security.

Direct involvement of elements of the system of organized crime in the structure and dynamics of General and regional crime, corruption in Russia and abroad, in a negative development of transnational organized crime, as well as the multicultural aspect of identity formation the main participants of the organized crime reflects the complex and multidisciplinary factors in the development of this phenomenon.

However, the progress of the criminal organized crime is reflected in the most cited foreign works. In particular, the information resource "citation Analysis in the economy" (Citation analysis of Journals and Working Papers) in the last few years, examines the current factors of criminal organizations:

- Economic consequences of organized crime (When the Mafia Comes to Town...).
- Economic and social consequences of the fight against money laundering and countering the financing of terrorism in developing economies (Gurney, 2014).

- The relationship of organized crime with information, corruption and effectiveness of government services (Pinotti, 2015).
- Organized crime and the distribution of subsidies (Narciso & Barone, 2015).
- Use the model of Internet governance in the field of organized crime (Jain, 2015).
- The influence of organized crime on public funds (Barone & Narciso, 2013).

The above-mentioned factors relevant manifestations of organized crime can be effectively investigated on the basis of the HSE based on existing innovation potential. For example, in the framework of the main research topics of the Institute of security studies at the HSE (Director: Yurchenko Alexander Vasilievich), you can develop:

- Theoretical and practical issues of enterprise security because of threats from organized crime.
- Civil society initiatives against organized crime in the framework of anti-corruption policy of the state.
- Study of Russian and foreign experience in the security industry in order to counter organized crime.
- Of measures of information warfare manifestations of organized crime in the internet.
- Complex means to combat the shadow economy and so on.

## CONCLUSION

Thus, the scientific vector and discernibility study relevant features of criminal law characteristics of organized crime are distinguished by large capacity and significant diversity that should be studied on the basis of the HSE.

Taking into account the submitted information and generalizations, objectives of the study are the integrated and comprehensive study of the legal system for prevention, detection and suppression of crimes committed in an organized group (criminal Association), an analysis of the legal norms and practices, development of proposals on further improvement of theoretical concepts and practical measures of criminal and legal fight against organized crime.

In accordance with the objectives the main objectives of the presented work are:

- Trace the development of views on the terminology of the sphere of fight against organized crime.
- Learn the norms of the general part of the criminal code, aimed at combating organized crime.
- Explore the qualified compositions of the criminal acts in the sphere of criminal and legal fight against organized crime.
- To analyse the main legal problems of combating organized crime and to indicate aspects of solutions, including.
- Social and economic consequences of combating money laundering and countering the financing of terrorism in developing economies.
- The relationship of organized crime with information and efficiency of public services.
- Civil society initiatives against organized crime in the framework of anti-corruption policy of the state.
- Event information warfare manifestations of organized crime on the internet; etc.

- To substantiate recommendations for mitigation (elimination) of the basic law combating organized crime.
- To generalize conclusions about the improvement of the criminal legislation on combating organized crime.

The practical significance of the research topic relevant features of criminal law characteristics of organized crime is determined by the solution of problems of law making, law enforcement and methodological nature, because in the thesis it is helpful to:

- To systematize the conceptual foundations of combating organized criminal activity.
- To justify the decision of the established criminally legal and criminological problems.
- To summarize the most relevant tools to implement a modern criminal policy.

The contents of the thesis can be used for further improvement of criminal legislation and related laws and in law enforcement activities. Insights, Suggestions and practical recommendations formulated in the thesis can be applied in educational process of higher education within the teaching of criminal law, criminology and also in the training of law enforcement officials.

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