

ORGANIZED CRIME AND CORRUPTION AS FACTORS OF INTERNAL SECURITY THREATS

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***Abstract:** The paper reviews the definitions of the concept of organized crime: legal, official and theoretical; of the emergent forms of this crime from the aspect of the manner of organizing the perpetrators of criminal activities and from the aspect of the type and content of those activities, with particular reference to corruption in the state's organs. The authors believe that the great presence of organized crime in the social pathology of the Macedonian society imposes the need for immediate and precise definition of this term with a special provision as a separate criminal act in the Criminal Code.*

Organized crime is a serious attack on the stability of the legal order, which in fact constitutes by the constitution and the laws established organization order of the state.

Mass organized crime in society means a massive violation of the constitution and the laws of the state.

Respect for the constitution and laws means a situation of organization and order in the state. In contrast, their massive violation is a mass disruption of organization and order. The massive disruption of organization and order leads to a high degree of disorganization in the state as an organization of citizens. In conditions of disorganization, the citizen does not feel secure. Security is the basis of freedom as an absence of misgiving and fear for the future. Only the citizen who feels himself safe is free, who does not fear for his life, his existence, his property, for the life, the property and the livelihood of his family members.

The connection of the government with organized crime produces nationalism and extreme radicalism.

Criminalized ruling sets in order to keep as long as possible the ruling position in society apply the principle of divide et impera (separate and rule). In doing so, the government strives to control divisions and confrontations in order not to allow them to turn into ethnic or religious conflicts that would jeopardize its survival. But divisions and confrontations are a dangerous phenomenon. They can easily get out of control and thus jeopardize the survival of the state.

The concluding statements state the measures that the social community should take on the prevention of organized crime.

***Keywords:** organized crime, corruption, nationalism, extremism, security.*

ОРГАНИЗИРАНИОТ КРИМИНАЛ И КОРУПЦИЈАТА КАКО ФАКТОРИ НА ВНАТРЕШНИ ЗАКАНИ ПО БЕЗБЕДНОСТА

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Резиме: Во трудот е даден осврт врз дефинициите на поимот организиран криминал: законски, службени и теориски; на појавните облици на овој криминал од аспект на начинот на организација на извршителите на криминалните активности и од аспект на видот и содржината на тие активности, со посебен осврт на корупцијата во органите на власта. Авторите сметаат дека големото присуство на организираниот криминал во социјалната патологија на македонското општество ја наметнува потребата од непосредно и прецизно дефинирање на овој поим со посебна одредба како засебно кривично дело.

Организираниот криминал претставува тежок атак врз стабилноста на правниот поредок кој всушност претставува со уставот и со законите воспоставан ред и поредок на државата. Масовниот организиран криминал во општеството значи масовно кршење на уставот и на законите на државата. Почитувањето на уставот и законите значи состојба на ред и поредок во државата. Наспроти тоа, нивното масовно кршење претставува масовно нарушување на редот и поредокот. Масовното нарушување на редот и поредокот доведува до висок степен на дезорганизација во државата како организација на граѓани. Во услови на дезорганизација граѓанинот не се чувствува безбеден. Безбедноста е основа на слободата како отсуство на стравување и страв за иднината. Слободен е само оној граѓанин кој се чувствува безбеден, кој не стравува за својот живот, за својата егзистенција, за својот имот, како и за животот, имотот и егзистенцијата на членовите на неговото семејство.

Поврзаноста на власта со организираниот криминал продуцира национализам и екстремн радикализам. Криминализираните владеечки гарнитуре со цел да ја задржат колку што е можно подолго владеечката позиција во општеството го применуваат принципот *divide et impera* (раздели па владеј). При тоа власта настојува да ги контролира делбите и конфронтациите со цел да не дозволи тие да прераснат во етнички или верски судири кои би го загрозиле нејзиниот опстанок. Но, делбите и конфронтациите се опасна појава. Тие лесно можат да излезат од контрола и со тоа да се загрози опстанокот на државата.

Во заклучните излагања се изнесени мерките кои треба да ги преземе општествената заедница за превенција на организираниот криминал.

Клучни зборови: организиран криминал, корупција, национализам, екстремизам, безбедност.

1. INTRODUCTION

There are many definitions of organized crime. Depending on the purpose, the approach and the way of defining there are law's, official, theoretical and other definitions (sociological, criminological, legal, etc.)

The Criminal Code of the Republic of Macedonia does not contain a specific definition of the notion of organized crime, but provides the possibility it to be theoretically derived from the provisions on complicity in the commission of the crimes contained in Article 22 to Article 25 and from the provision on criminal association contained in Article 394, paragraph 1.

First, we will keep on the legal provision for co-perpetration from Article 22 of the Code, according to which co-perpetration exists when two or more persons, together with an act of execution or with another particular contribution to the execution of the crime, jointly commit a criminal act.

For the definition of the term organized crime, the provision of Article, 394 paragraph 1 concerning the criminal association can also be used. According to this provision, a criminal association is a group or gang aimed at committing criminal offenses for which a prison sentence of three years or a more severe sentence may be imposed. The term group or gang is defined by the provision of Article 122, paragraph 28 of the Code. According to this provision, a group, gang or other criminal association or organization means at least three persons who have joined together to commit criminal acts, including the organizer of the association.

From the above it can be seen that the Criminal Code of the Republic of Macedonia defines the concept of organized crime in a classical manner, indirectly, by defining the notion of a criminal association and directly related terms: the term group or gang and the term co-perpetration. The great presence of organized crime in the social pathology

of the Macedonian society imposes the need for immediate and precise definition of this term with a special provision as a separate criminal act.²⁹

The official definitions of organized crime are mostly of American origin, primarily due to the fact that the United States most faced organized crime from a mafia type. In the first place, we will cite the definition of the California Special Police Commission on Organized Crime from 1948 which defines it as a criminal activity of two or more persons having a common goal of gaining financial gain or special convenience through terrorism, fraud, corruption of public servants or by a combination of these methods.³⁰

In addition to the California Commission, the Chicago Commission for the Prevention of Crime has also been established. According to the Chicago Commission organized crime consists in the participation of persons and groups (organized formally or informally) in transactions characterized by an attempt or a commission of serious offenses, an agreement for the execution of the acts, permanence of the association for a limited period of time (at least one year) or the intention of the association to exist for a longer period of time, the intention to acquire power or money and endeavor to secure political and economic security as the primary motive, and operational framework that requires special protection from the institutions of politics, government or society.³¹

In the European area, the most important is the definition of the Ministry of Justice and Police of the Federal Republic of Germany, which defines organized crime as a planned performance of criminal acts for the purpose of gaining profit or power, if more than two participants act together, sharing the work with industrial or business structures, using violence or other means of intimidation or influencing politics, the media, public administration, the judiciary and business. This definition has influenced the official definition of organized crime in other European countries as well as the theoretical definitions of several authors who deal with the study of this socio-pathological phenomenon.³²

In addition to the national definitions of the organized crime, there are also international definitions. Among them, undoubtedly the most significant is the definition contained in the 2000 UN Convention on Transnational Organized Crime, called the Palermo Convention. According to this Convention, the term organized crime means an organized criminal group structured by three or more persons organized to permanently act in the criminal field in order to commit one or more serious crimes identified by the Convention.

Based on legal and official definitions, theoretical definitions of organized crime have been derived. Given the fact that many authors³³ deal with the phenomenology of organized crime as the most dangerous sociopathological phenomenon in the modern world, there are numerous definitions for it.

In our legal and criminological theory, the most important are the definitions of Professor Ljupcho Arnaudovski and Academician Vlado Kambovski.

According to Professor Arnaudovski, the definition of the term organized crime includes the following elements: permanent centralized criminal organization, hierarchical set-up, internal division of affairs, planned and systematic dealing with crime, conspiracy and closeness, internal discipline, developed system of collaborators, high degree of obedience and loyalty, infiltration in state, commercial institutions and political parties to the creation of a "personal union" in order to establish a monopoly on the criminal branch, internationalization and use of modern means of communication and mobility.³⁴

According to Academician Vlado Kambovski, organized crime is the commission of criminal acts by criminal associations for the purpose of profit and / or achievement of power by using violence, or by using the special position in society, by reducing the risk with engaging in legal economic, political and other activities, as well as a pre-established system for protection against prosecution. " After a ten-year study of the organized crime phenomenon, Professor Kambovski expands this definition by adding new elements in her second part (apart from the use of violence). They are: the use of other force or pressure, the use of corruption, the involvement of legal

²⁹ In a similar way, this notion is defined in penal codes of most European countries. But the tendency for its more precise definition is present.

³⁰ Five years later, this Commission redefined the notion of organized crime so that under this term it implies the application of a special technique of violence, threats or corruption that, with inefficiency of the police, can be successfully applied in any business or industry that produce large profits in which legal business is involved, previously acquired by racket, violence or corruption.

³¹ There are other definitions of organized crime from US provenance: the definition of the 1972 Missouri Committee for the Prevention of Organized Crime, the definition of the US Presidential Commission of 1988 and others.

³² It is obviously its influence on the revised definition of organized crime by Academician Kambovski.

³³ Academician Kambovski in his extensive work titled "Organized Crime" lists 33 authors from different European countries who study organized crime and cite their own definitions for it. See: Kambovski V., Organized Crime, "2 August", - Shtip, 2005, p. 31 to 42.

³⁴ See Kambovski, Ibid: p. 41.

economic and political activities and the influence on politics, business, the media and the judiciary in order to facilitate profit and power and protect against criminal prosecution.³⁵

2. EMERGENT FORMS OF ORGANIZED CRIME

Organized crime, as we have seen from the above definitions, implies the existence of the organization of three or more persons for committing crimes. From the aspect of the organization of the perpetrators of criminal activities, there are the following types of organized crime:

- Mafia crime (Italian, American, Russian, Japanese, Chinese, Albanian mafia, etc.)
- sophisticated or "conspiratory" organized crime,
- "disguised" organized crime (crime of political parties, economic organizations, trade companies),
- transnational organized crime,
- crime in international criminal networks for committing terrorist activities, trafficking in narcotics, people, weapons, radioactive materials, money laundering, financial transactions, etc.

From the aspect of criminal activities that are involved, organized crime is a very complex phenomenon. It includes a wide and diverse range of criminal activities. In the first place of these activities comes the trade in narcotics. It is one of the dominant criminal activities and often there is a close connection with the state authorities, especially with those who issue permits for import of goods, then there is a connection with the customs authorities, with the transport and freight forwarders organizations, as well as a developed trade network for placing and dispersing of smuggled drugs.

Second, after the gain gained from the criminal activity, the smuggling of weapons comes as a criminal activity that carries an extraordinarily large amount of money, especially after the collapse of the USSR. Then the prostitution and illegal transfer of people, trafficking in human beings, money laundering, illegal money transfers related to terrorist activities follow etc. When we are in the terrorist activities, usually there is cooperation between terrorist groups, organizations or networks and organized crime that provides pre-financial and logistical support.

Characteristic of organized crime is that it endeavors with various methods to reach the highest authorities and other important subjects in politics, in order to provide for greater concessions, adequate protection and social status for the heads of criminal organizations. In this way, organized crime actually enables the creation of modern successful criminals who, on the basis of the acquired fame, achieve a certain social reputation and power with which they act on the authorities, the police, the judiciary, the media and other social institutions.

As we have seen from the definitions of the term organized crime given by prof. Arnaudovski and Academician Kambovski, one of its main features is the connection with the state authorities. Associated with them, it brings corruption to power that manifests itself through various forms of abuse. Therefore, we can say that corruption is not only one of the forms of organized crime, but also its highest developmental phase, after which, from the „state in state“ phase, a complete criminalization of the political and economic system occurs, and the state turns into criminal organization.

Every privately oriented economic system that specifically emphasizes material, ie monetary measures for the social value of man, is naturally more pronounced on corruption. Such a system is being built in the Republic of Macedonia. Unfortunately, money is a basic measure of the success of man, his social power and his social position. The one who has money can do almost everything in society, can afford almost all pleasures, achieve almost all goals, and so on. Therefore, the biggest corruption affairs are done where big money is being spent, primarily in the major deals - in state purchases, in high taxation, in issuing work permits, in determining prices, determining different tariffs and so on. The consequences of those scandals are the most difficult.

Today we have precisely elaborated and well thought out, in the legal framework ,incorporated affairs where it is, sometimes, difficult to determine whether it is corruption or legal work. An even more perfect form of corruption is the placing of civil servants in the dependent position of criminal organizations and then putting pressure on them to „look through fingers“ in the unlawful operation of the users of corruption.

In societies where corruption is widespread, the penitentiary bodies - the police, the prosecutor's offices, the courts, the bodies for misdemeanor and disciplinary prosecution - are corrupt. The nature of corruption is such that corrupt deals in normal societies are difficult to detect. In corrupt societies, corruption is particularly difficult to detect and prosecute due to the corruption of penitentiary bodies and public officials themselves who have no interest in

³⁵ See Kambovski, Ibid: p. 49.

reporting corruption, because they are often involved in corruption deals, and if not personally involved, they are afraid some of the persons involved in organized crime and corruption do not endanger them personally or their family members.³⁶

3. ORGANIZED CRIME, SAFETY OF CITIZENS AND NATIONAL SAFETY

Axiologically speaking, the supreme value of man, as an individual, is life. Security, as a human value, comes immediately after life, as the second in rank. Human rights are a reflection of human values. The values of man are protected by them. Starting from this, the fundamental human right is the right to life. The remaining rights, such as: the right to security, the right to freedom, the right to physical integrity, the right to integrity, the right to health, the right to property and others, are in function of the right to life.

The right to security is guaranteed to the world's citizens by: the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention). This right is incorporated in the constitutions of the countries of the world and Europe.

The Constitution of the Republic of Macedonia contains several articles that regulate this right of the citizens of the Republic of Macedonia.³⁷ As can be concluded from the constitutional provisions on the freedoms and rights of citizens, the right to security is a complex right that includes: the safety of life, the security of physical and moral integrity, the security against unlawful deprivation of liberty, the security of unlawful punishment, security from violation of rights, security of citizen communications with other subjects, personal data security, privacy security, home security, security of movement, security from external aggression etc.

The constitutional provisions for the protection of the right to security are incorporated and detailed in national security laws in all areas of social life. These laws constitute a solid normative and legal basis for the construction of stable political, social, economic, defense and legal systems as the basis for social stability. This is a social guarantee for the existence of a stable legal order and the construction of a system of rule of law.

Social stability is the best guarantee for the realization of the rule of law system. The fundamental imperative for social stability is the existence of a solid legal order. A high degree of legal order in society means a high degree of rule of law. A high degree of rule of law produces a high degree of social stability. Conversely: a low degree of social stability produces a low degree of stability in the legal order and, at the same time, a low degree of rule of law in the state. Only with the existence of a stable legal order the freedom and security of the person will be protected.

Organized crime is a serious attack on the stability of the legal order, which in fact constitutes the constitution and the laws established order and order of the state

Mass organized crime in society means a massive violation of the constitution and the laws of the state. Respect for the constitution and laws means a state of organization and order in the state. In contrast, their massive violation is a mass disruption of organization and order. The massive disruption of organization and order leads to a high degree of disorganization in the state as an organization of citizens. In conditions of disorganization, the citizen does not feel secure. Security is the basis of freedom as an absence of misgiving and fear for the future. Only the citizen who feels safe, who does not fear for his life, his existence, and his property, for the lives, the property and the livelihood of his family members is fear.

The state is organized a community of citizens. Citizens' security and national security are in dialectical unity. If citizens are not safe, it cannot be discussed about national security.

The connection of the government with organized crime produces nationalism and extreme radicalism. Criminalized ruling sets, in order to keep as long as possible the ruling position in society, apply the principle of divide et impera (separate and rule). In doing so, the government strives to control divisions and confrontations in order not to allow them to turn into ethnic or religious conflicts that would jeopardize its survival. But divisions and confrontations are a dangerous phenomenon. They can easily get out of control and thus jeopardize the survival of the state. Such a

³⁶ Organized criminals often kill the personalities of the state authorities that stand in their way. Such is the case with the Italian judge Giovanni Falcone, who was killed on May 23, 1992 by the Sicilian mafia. His name later became a symbol of the fight against organized crime.

³⁷ Security of life - Article 10, security of physical and moral integrity - Article 11, security against unlawful deprivation of liberty - Article 12, security against unlawful punishment - Articles 13 and 14, security from violation of rights - Articles 15, 24, 50, 51 and 54, security of communications with other entities - Articles 16 and 17, personal data security - Article 18, security of privacy - Article 26, home security - Article 26, security of movement - Article 27, security from external aggression - Article 28, security of property - Articles 30 and 31, security of labor and work - Article 32, Social Security - Articles 34 to 37, security of health - Articles 38 and 39, Family Security - Articles 40 to 42, Environmental Security - Article 43, Business Security - Article 55, 58 and 59.

situation, for the sake of the truth, we had during the reign of the previous ruling establishment. But divisions and confrontations are a dangerous phenomenon. They can easily get out of control and thus jeopardize the survival of the state. They, speaking with the people's language, are playing with fire. But with fire is not played, because playing can easily lead to a great fire in the society.

4. INCLUDING CONCLUSION

Bearing in mind the above, we can conclude that organized crime not only poses a threat to national security, but also threatens the personal safety of citizens. Therefore, the fight against organized crime is a struggle for the preservation of the national security of the state and the personal safety and freedom of the citizens. A number of methods, tools and institutions are available to society to combat this great evil and to prevent it, starting from the change of moral values, through the methods and means of the control and protection institutions of society: the police, the inspections, the public prosecution, the courts and so on.

As for the change in moral values, we will refer to the famous American social psychologist and Marxist Erich From, who, in his book entitled "To Have or to Be" commits to replace the motive to have, with the motive of being.³⁸ Briefly and simply said: A man can have a lot of money, a luxurious car, a beautiful house, a holiday home in the most beautiful location, a luxury yacht and so on. It's not worth anything, if he is not healthy, if he is not happy, wise, educated, and so on. Many things can be bought with money, but with money you can not buy everlasting life, the nature, can not be bribed by money it not to send us diseases, storms, heat, thunders. That's why it's better „to be“, than „to have“. In this direction, the ethical education of the citizens, especially the youth, should be directed. They should try to work, work to achieve results and affirm themselves in the society as individuals who are somebody and something, and not as individuals who have money and wealth, and who are none and nothing or more precisely stated conservative, uneducated minority which are mocked by the world as the abundantly riched, uneducated and stupid freighter Trimalhion of Petronius Arbiter.³⁹

Regarding this, the adoption of ethical codes for the behavior of students, employees in the economy and civil servants and the education of citizens to behave and work according to those codes can, in certain social conditions, give good results. But in a society governed by the wolf laws of egoistic satisfaction of personal interests, in which personal interests are above the social, above the national interests, above the state's interest, above the collective, and so on, which is, in fact, the Macedonian, this method can not be enough efficient, because in such a society, social morality is at a very low level and with a distorted moral value.

For the prevention of corruption in public institutions and services that, as we have seen, is an effective leverage for organized crime, good results can be done by the payment public officials, which must be such as to enable them to satisfy their normal personal and social needs, of course, combined with intense ethical education and upbringing. But in a social environment where money is a top criterion for human status, in a society where the greed of public servants has become normal, this method is not effective enough. The old Macedonian folk proverb says: "The human eye is insatuated". It seems that no salaries, even those highest, can not meet the corrupt senior state functionaries and officials.

The precise definition of organized crime in the Criminal Code and the strict sanction of its perpetrators combined with precisely elaborated legal rules for the work of the public administration channel the behavior and work of citizens and public servants, so it can be expected that they, fearing responsibility due to their violation, will refrain from unlawful activities, and within that, from corruption.

Declarations of the origin of the property yield results in societies with proper and highly developed public morality. In pathologically corrupt societies, the results of this method are weak or almost none, because the citizens involved in organized crime, and besides them public servants and functionaries who support them, have a common interest to hide their property and corrupt justice institutions⁴⁰ not to sanction those who gained it in an unlawful manner. Cornix cornici oculos non efodiet - The raven do not tear out other raven eyes, says the old Latin proverb.

Control and inspection can yield good results provided they are well organized and supported by citizens and the government, and of course, if controllers and inspectors themselves are not corrupted. This method is implemented

³⁸ From E., To be or to have, Narodna knjiga - Alfa, Belgrade, 1998, p. 33-48

³⁹ See: Petronius, The Trimalhion's Feast, Rech i misao, Belgrade, 1969.

⁴⁰ Vuković S., Law, Moral and Corruption, Filip Višnjić - Institute of Social Sciences, Belgrade, 2005, p. 69.

through the establishment of special anti-corruption inspections and commissions,⁴¹ and by directing the work of other bodies of control and supervision in the direction of detecting the occurrences of corruption. In societies with pathologically widespread corruption, members of the control and oversight bodies, if they themselves are not corrupt, face various forms of pressure to not reveal and not report corruption deals. These forms range from the easiest warnings to severe threats to the property and life of members of these organs. In some countries there are occurrences of even killing too zealous inspectors who threaten criminals to pursue their criminal goals.

Publicity in the work is a good method of preventing organized crime and corruption in societies in which the information system objectively monitors the situation in the society and in which the administration is transparent and opened to the citizens. The administration, ie public authority in a democratic society should be under the eye of the public, the public opinion, transparent and opened as the professor Jovan Djordjevic had the custom to say. Being under the scrutiny of the public, criticized by her through the press, radio, television, it, or its members will refrain from open corruptive affairs in cooperation with organized crime.

The Republic of Macedonia faces all these problems, with all these difficulties. Due to the strong presence of organized crime of all kinds and the enormous development of corruption during the eleven years of rule of the previous ruling establishment, society is in a severe socio-pathological crisis. The most effective way to fight organized crime and corruption is to organize a comprehensive front against them. It involves a combined application of all the aforementioned and other methods and tools. For that purpose, a well-coordinated and organized action is needed for all public services in which competence is the fight against this pathological phenomena in society. This action should involve citizens directly or through their associations as the most interested subjects for building a healthy society for what Erich Fromm writes in his book *Sane Society*, a society of free citizens, a society free of greed, exploitation and robbery, a welfare society. There is no security (neither personal nor national), there is no freedom, no equality, no well-being in conditions of massive presence of organized crime, in conditions of general corruption in the society, in conditions of severe social pathology. Therefore, the fight against organized crime and corruption should be *conditio sine qua non* for building a stable and democratic society in the Republic of Macedonia.

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⁴¹ In the Republic of Macedonia, the Law on Prevention of Corruption "Official Gazette of RM" no. 28/02, 46/04, 126/06, a State Commission for the Prevention of Corruption was established. Due to the tight connections between the authorities during the reign of the previous government of the age of one hundred years, the Commission was not efficient in carrying out the work of its jurisdiction and regularly defended the corruption cases when they were involved or close to them.

