
ҚЫЛМЫСТЫҚ ПРОЦЕСС ЖӘНЕ КРИМИНАЛИСТИКА УГОЛОВНЫЙ ПРОЦЕСС И КРИМИНАЛИСТИКА

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Problem of policing economic crime in Russia

Проблемы борьбы с экономической преступностью в России

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Мақала Ресейдегі экономикалық қылмыстылықпен күреске арналған. Ұйымдасқан жемқорлық желісі, әр түрлі әкімшілік деңгейдегі жемқорлықтың дамыған нысандарының симбиозына, ұйымдасқан және экономикалық қылмыстылықпен күресуге аса назар аударылған. Мақалада Ресейдегі ұйымдасқан қылмыстылық пен жемқорлықтың тенденциялары қарастырылып, оның нәтижесінде Ресейдегі экономикалық қылмыстылық пен жемқорлықтың таралуы бағаланып, ол қылмыстармен күреске бағытталған құқыққорғау органдарының қызметінің мәселелерін және нәтижелілігін бағалауға мүмкіндік туды.

Статья посвящена рассмотрению борьбы с экономической преступностью в России. Особое внимание уделяется раскрытию организованной коррумпированной сети симбиозу развитых форм коррупции на всех административных уровнях с организованной экономической преступностью. В статье рассматриваются тенденции организованной преступности и коррупции в России, что позволяет оценить их масштаб, опасность, проблемы в правоохранительных органах и эффективность борьбы с этими преступлениями.

In the past decade, many transitional countries, especially Russia, have experienced merging of criminals, state officials, businesspersons and law enforcements into a network for mutual financial and economic benefits. Their operations led to the fundamentally new phenomenon — the organized corrupt network, a symbiosis of the developed forms of corruption at all administrative levels, organized and economic crimes.

Analyzing crime data from law enforcements and business experts, this study examines the trends of organized crime and corruption in Russia. It examines the Ministry of the Interior experts, the Chief Directorate of Fight Organized Crime MVD R.F. and entrepreneurs' responses in three dimensions: (i) types of enterprises controlled by criminal [network] groups; (ii) circumstances facilitating the expansion of their control over territories and the economy; (iii) methods and forms of such control. Throughout the law enforcement responses, this analysis helps to assess the scale and danger of economic crime and corruption in Russia and assess the law enforcements problems and efficiency in dealing with those crimes.

Russian's post-transition economic crime is a complex system of social and economic relations for illegal profit extractions through corruption network. Organizing such network involves professional activity of criminal organization, or groups consolidated within the region (territory), strict hierarchical structure and allocation of functions for profit extraction. These groups infiltrate into legitimate business, state authorities and law enforcements, using violence, corruption and monopoly on illegal goods and services to maintain its antisocial activity and obtain immunity from exposure in conspiracy. Criminal activity within the network has increasingly become instrumental in dividing and monopolizing markets, securing market share and higher profits. Network (s) penetrated business and state-run enterprises to a degree unheard of anywhere in the Western world, a fact that start-up firms soon discover. Moreover, its reach in the business realm extends throughout the former Soviet Union [1].

According to the Ministry of the Interior *OBR* (operational investigation bureau) experts' study on organized crime groups (OCG) infiltrated national economy, 10 percent of law enforcements convinced that organized crime supervises all, legal and illegal economic activities nationwide. The majority of those experts, 65 percent, believe that OCG is one of the important factors, rendering negative influence on a criminal situation in the economy; 23 percent recognize OCG as a second tier of the whole economy; the rest, do not see any significant influence on a criminal situation in economy [2; 72–84].

Contemporary Russian economic crime is more integrated than ever before. Leaders of criminal groups, aiming at strengthening their growing organizations and expansions into spheres and territories of their influences, have united all capital under the most authoritative leaders. Criminal associations began using violence to apply pressure on different players of developing market, aspiring key positions in the emerging economy. There are more than 28 large business in industrial centers, among them Moscow, St. -Petersburg, Krasnoyarsk, Norilsk, Irkutsk, Rostov and Togliatti, controlled by criminal groups.

The Ministry of the Interior experts, in the past five years, recognized a tendency of the criminal business integration. In particular, regarding the most criminal areas, 21 percent of law enforcements have pointed on those operated within intraregional administrative borders; 18 percent have specified all territory of a region; 3 percent indicated that an entire region is a part of inter-regional criminal community [3; 90–95].

As to the source for such contemplation, 32 percent of law enforcements have specified the intelligence data; 19 percent based on the analysis of criminal statistics and 21 percent the financial and economic parameters of economic activities. According to the same study, 69 percent of the law enforcements have the insider's information that criminal groups are behind [totally control] of the enterprises' activities and only 29 percent of experts had negative replies. In respect to the economy criminal subdivision, 34 percent of law enforcements have had investigated such cases and 56 percent have declined such possibilities [4; 59–70]. Consequently, enterprises and small subdivision of the economy are the most controlled by the criminal network group.

The same conclusion confirms the enterprises' employee opinion. In particular, whether there is a corrupt [organized crime] network at the enterprise they work or, in the city, and region they live, 61 percent have answered yes, 24 percent have negative respond, and the others have refrained from answers.

Law enforcements have even suggested using the term 'criminalized objects' for enterprises connected with, or controlled by the organized crime network (OCN). The cause for such criminalization 52 percent of law enforcements observe in raising economic crime in general, 34 percent associated it with mass unemployment, and 23 percent believe that regions rich in natural resources attract criminal activity.

On the question «what scale of organized crime networks are operating in your region?», 47 percent of law enforcements have indicated the local groups, 31 percent regional, and 17 percent of an inter-regional level [5].

Regarding the scale of OCN activity, experts of the Ministry of the Interior presented different information: 19 percent believe that it is limited to a region, 60 percent have specified inter-regional character, 6 percent presume it carried out within the Commonwealth of Independent States, and 14 percent pointed out on the international scale. These differences in evaluating the OCN scale of operations come with divergence of law enforcements in various regions of their functioning. Moreover, in the second case, law enforcements from Main Anti-Organized Crime Directorate (*MBOCS, Main Bureau on Organized Crime Struggle* of the Ministry of the Interior, most likely, fully informed on the scale of OCN activity. Therefore, there is a reason to believe that the experts of the Ministry of the Interior more informed about the realities and thus, the most widespread scale of OCN activity is inter-regional.

Thus, also the Ministry of the Interior experts has specified that 2 percent of the OCN integrated in the homogeneous criminal community with one executive center within the boundaries of a region. Smaller criminal groups that operate independently within a large criminal community compose about 19 percent. Those, independently operating in various spheres of economy and cooperating with others on consult-base tactical operations only, are 54 percent. Additionally, 24 percent operate independently.

Therefore, in most cases, criminal groups autonomously carry out their enterprises in various spheres of economy, cooperating with others only on a tactical decision-making level. Other groups operate independently within the boundaries of large criminal community and often do not cooperate. Almost 33 percent of the Ministry of the Interior experts has noted that each criminal group supervises a specific sphere (branch) of the region's economy; 32 percent estimate that a various criminal groups specializing in joint control over one sector of the economy. At the same time, 13 percent believe that there are some OCN, which specialize and supervise a various spheres (branches) of the Russian economy [6; 12–23]. Hence, in most cases, various

criminal groups maintain a distributive character of control over the economy. With little more than extortion in mind, they were bound to defend and even look after their past victims to survive violent competition. In creating a set of tricks that allowed them to embezzle huge amounts of cash, they led to work out a system of guarantees to secure the transactions of their clients. Previously demonstrating their absolute disrespect for the law, accounting and public opinion, they ultimately found themselves hiring lawyers, accountants, public relations professionals, and even police units to protect and manage their assets [7; 191]. Among those, law enforcements estimate about 54 percent economists; 39 percent of commercial and state-run banks employee; 28 percent of the federal customs officers; 43 percent financial inspectors and tax police; 22 percent experts in sphere of computer technologies (system administrators and hackers); and 14 percent from other branches. In addition, by bribing officials, the organized crime groups create corruption network, 64 percent in the institutions of local government; 24 percent in representative bodies of the Russian Federation; 41 percent in the executive bodies of the Russian Federation; 17 percent in the territorial and federal governments and 28 percent in law enforcements [8; 107–122].

Hence, corruption network with the government agencies and law enforcements, in the most cases have been formed and maintained at the local and regional levels.

Law Enforcements' assessment on types and forms of OCN controls over enterprises and the economy

Russian economy liberalization and privatization of the state enterprises have legalized organized crime groups and illegal economy entrepreneur's capital and made them legitimate businesspersons. Under this process, the OCN directly took many enterprises under its control or made them being dependent on a commercial structures created by organized crime groups. Seven criminal groups, for example, controlled the Russian car manufacture «Lada» (AutoVaz), with about 800 members. They control the process of car manufacture, assemble, and retail, with annual criminal income between \$600 and \$800 million [9]. Other OCNs have power over more than 40 thousand enterprises with various ownerships, including 1500 state enterprises, 4000 joint-stock companies, over 500 joint ventures, 550 banks, and 700 wholesale and retail markets.

Regarding the types of enterprises and businesses controlled by OCN, both, law enforcements and business entrepreneurs, remain unanimous on the most criminalized sectors of the economy [10; 12–23]. These are the enterprises of fuel and energy complex, 53 and 46 percent accordingly, enterprises and associations of the consumer market, 47 percent and foreign trade, 23 and 24 percent accordingly.

Unlike at the beginning of transitional period in the 1990s, current economic and financial activity of legal enterprises concentrated in industrial sphere and therefore, organized crime inclined to take it under control. In order to impose such control, OCN closely cooperate and, more often, merging with regional financial and industrial groups under a leadership of «*authoritative businessman*» of large criminal group. Criminal network, then, forcing those to carry OCN's policy out against competitors. It organizes illegal operations in loans and banking transactions, real estate and securities, which become an untraceable form of money laundering.

By degree of OCN activities, the most vigorous area of organized crime operations is in fuel, energy, bootlegging, and tobacco enterprises. Next, are the enterprises of consumer market, foreign trade, jewelry manufacture and use of precious metals and the state funds. The third place in the hierarchy of OCN preferences are intellectual piracy, banking, and the forced bankruptcy of various enterprises of the Russian economy.

High profits in fuel and energy complex draw steadfast attention of criminal structures to control those sectors. The OCN launches firms-intermediaries and buyers of oil, allocation of raw materials and processed products as well as dictating retail prices. In so doing, the transaction costs of oil and minerals are artificially set very high by including charges, which have not been associated with purchase, transportation, and retail. The oil producing companies transfer a part of the extracted oil (physically) to a regional administration as a part of its debt repayments or outstanding taxes. Some officials, being a part of the OCN, transfer oil and energy products to commercial structures set by organized crime to sell and wire the profit to a foreign bank. In most of such cases, the defining factors of the oil extracting companies' criminalization are the lack of legal regulations at the registration, licensing, and taxation levels.

Organized crime activity has also increased in the sphere of illegal manufacture and distribution of alcoholic beverages. Criminalization of this highly profitable area was a result of privatization of the state monopoly in manufacture and retail of liquor. OCN involved in manufacture of forged and non-licensed alcoholic beverages, collecting extra profits by distributing such products with obtained state-preferential tax and

exempt customs duties. Profit from illegal alcoholic beverages market in 2004 was about 220–230 million dollars annually, which makes practically half of the illegally produced and sold alcohol. Licenses to newly created enterprises issued without the examining of a region's demand for alcoholic beverages and even enterprise productions capacity, but more than ever, obtained by bribery and clientele.

Law enforcements and businesspersons have some similar observations on circumstances facilitating the expansion of organized crime groups control over the territories and economy. Thus, both groups have put corruption of the government officials, 50 and 72 percent respectively, on the first place [10; 12–23]. The most typical techniques of the corruption network maintenance are bribes, free services, and favorable conditions in financing, low or no rent housing and personal favors. Government officials maintain ongoing contacts with the businesspersons at all levels of the economy. Alongside with those are weak governmental regulations, unresponsiveness of power authorities to citizens needs and the concurrence of criminal leaders' interests with entrepreneurs of shadow economy. Consequently, both, law enforcement and businesspersons, 29 and 34 percent, consider enterprise directors compulsion through members of OCN to a various transactions with commercial structures controlled by OCN; using laundered money to buy shares or even enterprise itself; conducting illegal financial operations through OCN's created fictitious enterprises.

At the same time experts disagree in such forms of the control as money, natural resources, or extortions from the enterprises managers and directors, 9 and 25 percent respectively; control-management of the municipal institutions and law enforcements through the government officials, 17 and 40 percent. Divergence in evaluating the form of control, on one hand, understood as unwillingness of the enterprise directors to report on facts of encountering with OCN and thus, the majority of law enforcements consider such phenomena practically nonexistent. However, on the other hand, it is impossible to exclude that the extortion tactics has changed. OCN do not demand money directly but veil it under rendering to the enterprises security and other services. As to a considerably small percentage of law enforcements, 17 percent, considering OCN control government authorities and law enforcements, perhaps, replicate their unwillingness to specify to that question because they (might) participate in such criminal process.

In 2002, the results of the continuing study were quite different. Organized crime, in order to set a control over the enterprises, began buying controlling shares or even enterprise. About 25 percent of criminal groups (in economically developed regions almost 50 percent) launder criminal profits throughout legally operating commercial structures by purchasing real estate, enterprises' shares, investing in various businesses. More often, they began to use legal bankruptcy procedures and other schemes to change the proprietor and the enterprise administrative personnel. Violence and intimidation in forceful placement of OCN's people into enterprise management key positions is also a common practice, as well as forcing managers to commit transaction through controlled commercial structures. OCN applies all possible tricks to establish control over commercial banks and insurance companies. According to the Ministry of Interior data, under criminal manipulation and control are 550 banks (more than 50 percent of those are officially licensed). If in previous years an attempt to establish control over bank officials was carried out throughout security services or blackmail (even physical violence), now there are economic methods through buying up shares or management.

At the first stage, the bank that encountered a financial difficulties (artificially provoked by plunders in proceeded loans), will be forced to sell its shares controlling package and subsequently, group loyal to OCN would be placed into a bank executives' board. Using laundered money through controlled commercial structures, bank quickly would increase its authorized capital. Thereafter, utilizing organizational structures and conducting all types of contracts on behalf of the bank, OCG carries a massive financial fraud.

For example, in 1991, OCN plundered \$125 thousands from the Russian Foreign Trade and Investment Bank and in September 1993, an electronic swindle for more than 68 billion rubles from the Central Bank. Russian Central Bank's Money Laundering Department, in 1995 only, investigated more than 300 attempts of illegal transactions of stilling or laundering money [11; 34–39]. As for commercial banks, it is practically impossible to estimate damages of possible plunders, securities and stock exchange, though one example is remarkable. The Dagestan's commercial bank employee «*Khasavyurt*» throughout different schemes illegally appropriated 670 million dollars and 130 million Euros of the bank customers.

The OCN, in order to set control over highly profitable enterprises and banks carries out the following operations:

- aspire to receive control over enterprises' property by buying shares or supplying desperate enterprises with criminal cash;

- use forced bankruptcy procedures and other schemes to change the proprietor and the administrative personnel;
- by violence or a deceit, inculcate in the enterprise and government key positions the OCN's loyal people to privatize profit;
- forcing managers or directors of the enterprises to perform all financial transactions with commercial structures under OCNs control.

To carry out such actions the OCN actively bribe representatives of the government, law enforcements, and private security structures. Such practice is typical only for the highest criminal elite seeking their business engagements as well as for immunity in potential charges.

Conclusion

While the state is persistently reorganizing law enforcements, the actual reform, which would improve their performance, has not occurred. Police, still, may arrest a group of criminals caught in illicit acts, but the lack of conspiracy laws means police cannot arrest the leaders so long as they were not directly involved in the crimes. Existing laws offer no means of seizure the records of fraudulent companies or checking the criminal provenance of banks accounts.

Organized crime strives to increase and legalize its income by infiltrating into economic and financial systems throughout corrupted relations. Criminal associations attempt to acquire packages of enterprises and banks controlling shares and infiltrate into the international trading structures. Creating the extensive network of controlled commercial and financial enterprises, they invest into profitable industries with various forms of property. Use of export-import transactions and legal enterprise's activity serve as convenient cover-up to conduct large-scale frauds with uncontrolled profit, a major part of which transferred to foreign bank accounts, and assists in money laundering.

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