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Organized crime in the global context: emerging threats and effective responses

Організована злочинність у глобальному контексті: актуальні загрози та ефективні відповіді

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Abstract


The research paper outlines several issues related to the impact that the organized crime nowadays has on global community. Various issues of “group” criminality, its goals and motivations are discussed at length. The difficulty of precisely defining such phenomenon is explored. Two major pieces of international legislation, the United Nations Convention against Organized Crime and the EU Council Framework Decision 2008/841/JHA of 24 October 2008, are discussed in order to reveal some key parameters for introducing national criminal law provisions against organized crime.


By using comparative and other research methods, American, Mexican and Ukrainian approaches to outlining issues of organized crime and responding to them are explained. As a role model, historical roots, structural model and impact of Mafia-type organizations in the United States have been outlined. Also, successful impact of the U.S. Racketeer Influenced and


Анотація


Наукова стаття окреслює кілька питань, пов'язаних із впливом сучасної організованої злочинності на світову спільноту. Детально обговорюються різноманітні питання «групової» злочинності, її цілі та мотивації. Досліджено труднощі точного визначення такого явища. Два основних міжнародних нормативних акта, Конвенція ООН проти організованої злочинності та Рамкове рішення Ради ЄС 2008/841/ЈНА від 24 жовтня 2008 року, обговорюються з метою виявлення деяких ключових параметрів для запровадження положень національного кримінального права проти організованої злочинності.

За допомогою порівняльних та інших методів дослідження пояснюється американський, мексиканський та український підходи до окреслення проблем організованої злочинності та реагування на них. Як модель для наслідування, окреслено історичне коріння, структурну модель та вплив мафіозних

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Corrupt Organizations Act on such types of criminal activity has been revealed.

Finally, the structure of criminal community in Ukraine as a typical form of organized crime in this country has been described through the legal analyses of its five key elements.

Key words: organized crime, criminal offense, law enforcement agency, terrorism financing.

Introduction

The centuries-long fight against crime and particularly against organized crime should be viewed through the lenses of close international cooperation among States to prevent and combat this evil as a whole. This is not a task for a single world jurisdiction but rather for the world community as a collective global entity. Pragmatic “anti-crime” international cooperation has become ever more necessary after the September 11 terrorist attacks on the United States of America.

Modern organized crime has various forms and involves various instruments; it relies on money, reputation and other resources. However, it is important to mention the most prominent forms of organized crime, such as drug trafficking, human trafficking, financial crimes (including money laundering and terrorism financing), arms trafficking. There is no doubt that organized crime makes a huge negative impact on many countries, especially those with transitional economies, and has harmed the development of democratic institutions and democracy in general in these countries (Berisha, 2014). Unfortunately, Ukraine serves as just one of many examples in this respect.

Transnational organized crime is a rapidly escalating issue for the world community. Criminals have demonstrated that they can quickly adjust to new technologies and take advantage of the growing globalization of the world’s economies. They know how to exploit borders to their benefit to shield themselves, but do not let issues of national sovereignty, ethnicity, or language stop them when they find an unlawful way to make money (Ohr, 2012).

According to the former American President Barack Obama, technological innovation and globalization have proven themselves as a

організацій у Сполучених Штатах. Також виявлено успішний вплив Акту США про корумповані та рекетирські організації на такі види кримінальної діяльності.

Зрештою, структуру кримінального співтовариства в Україні як типової форми організованої злочинності в цій країні було вивчено через правовий аналіз п’яти її ключових елементів.

Ключові слова: організована злочинність, кримінальне правопорушення, правоохоронний орган, фінансування тероризму.

powerful force for good. However, transnational criminal organizations have exploited our increasingly interconnected world to grow their illegal businesses. Criminal networks are not only expanding their operations, but they are also varying their activities, resulting in a convergence of transnational threats that has become more complicated, unstable, and disruptive (U.S. Department of Justice, 2011).

The primary *goal* of our research is to analyze, within different legal dimensions (international, national, comparative), some pressing issues related to organized crime in the modern globalized world. Based on the provisions of two major international conventions on the issue, as well as national laws of several world jurisdictions, it is expected to reveal both similar and distinct features of organized criminality as perceived by both legislators and societies in different parts of the world.

Methodology

The quality of scientific results obtained in this paper is ensured through the extensive application of long-established research methods.

The *formal legal method* was employed in the course of studying normative legal material, in particular the United Nations Convention against Organized Crime (United Nations Office on Drugs and Crime, 2000) and the U.S. Strategy to Combat Transnational Organized Crime: Addressing Converging Threats to National Security (U.S. Department of Justice, 2011). Using this method allowed to clarify the meaning and significance of the rule of law and other major legal principles when applied to key international legal documents which address various issues of organized crime.

The analytical (doctrinal) research method allowed the authors to use various interpretive techniques in order to examine statutes, practical approaches and other forms of law operation, with the aim of reviewing basic rules and principles of liability for organized crime offenses. Referring to this method allowed to better interpret the fundamental legal category “organized crime” in its broad international context.

The statistical methods were employed to analyze online databases and empirical sources, thus allowing for the identification of emerging trends and patterns within the criminal cycle offenses by organized groups. This academic paper primarily relies on non-government research data as the principal source of information, and less so on the court-based or law enforcement data.

Finally, the critical analysis conducted enabled formulation of conclusions and recommendations for improving national and international laws and regulations aimed at combatting organized crime in its various forms.

The combination of such methods of legal research has allowed us to exercise a systematic, comprehensive approach to understanding the illegal nature and crimes committed by organized crime syndicates as well as law enforcement approached to fighting various organized crime groups. In particular, we have studied specific legal provisions (normative-dogmatic method), analyzed law and practice in the given area of criminal law and criminology (analytical method) and used some empirical data (statistical method).

In addition to selecting specific scientific research methods, the methodology of legal research within our work relies heavily on finding the optimal balance between empirical and theoretical approaches to discussing the organized crime phenomenon.

Overall, extensive use of methodological tools of legal research has enabled us to take a closer, in-depth and comparative look at several issues of global security with regard to fighting organized criminality, including various approaches, legal actions and recommendations. It enabled a rigor research and ensured the validity of the results obtained.

The high quality of the research and the academic validity of the results was ensured by the diversified approach to official and academic

sources, analytical quality and accuracy of empirical data used.

Literature review

The topic outlined in the title for this research piece is deemed as both relevant and timely.

Various legal issues related to organized crime and transnational organized crime have been researched by Ukrainian (O. Dudorov, Yu. Lutsenko, V. Kovalchuk, D. Kamensky, A. Vozniuk among others) and other foreign (such as F. Cingano, J. Albanese, M. Berisha, K. von Lampe, M. Tonello, K. Gooch, J. Treadwell) scholars at length.

In particular, A. Vozniuk and O. Dudorov collectively observed that legislative changes related to liability for crimes committed by a criminal group, added in 2020, generally had a positive effect, as they provide for elements of influence on the leaders of the criminal world, in particular, they make it possible to bring them to criminal liability for manifestations of socially harmful behavior (Vozniuk & Dudorov, 2021).

D. Kamensky has extensively researched the “white collar” component of international organized crime, by referring, in particular, to RICO Act in the United States and statutes against organized economic criminality in Ukraine. His conclusion: over the three decades of Ukrainian independence the organized crime in this country has evolved from mostly “violent” type to “white collar type” (Kamensky, 2020).

Yu. Lutsenko has researched a nexus between organized crime and illegal immigration, based on which he has formulated the following conclusion: due to its transnational nature, growing dynamics and impact on various aspect of everyday life, migration is increasingly perceived as a serious challenge to the conventional paradigm of certainty and order, i.e. national, public and personal security. The relationship between migration and security has a direct impact on public opinion, political struggle, and governmental decisions (Lutsenko, 2022).

F. Cingano and M. Tonello, in their turn, made a conclusion, based on exhaustive empirical and theoretical data analyses, that policies strengthening law enforcement mainly through perceptions based deterrence or stimulating social control may have non-negligible effects on crime in jurisdictions, which are characterized by

the pervasive presence of criminal organizations (Cingano & Tonello, 2020).

And K. von Lampe, in his turn, calls for a comprehensive analytical approach to organized crime, based on the notion that such type of crime is based on a concept driven by three distinct focal concerns regarding: organization of crimes, the organization of criminals, and the organization of social spheres by criminals (Von Lampe, 2019).

Overall, despite a rather extensive body of scholarship related to the outlined research topic, not all aspects of organized crime as a threat to the global community have been covered so far. This paper is written with an analytical goal of addressing such issues, at least partially.

Results and discussion

The United Nations Convention against Organized Crime (also widely known as the Palermo Convention, hereinafter used as such) remains the main international instrument in the fight against transnational organized crime. Being the main international instrument in the ever going fight against transnational organized crime, this document was adopted by the General Assembly resolution 55/25 of 15 November 2000, followed by opening for signature by Member States at a High-level Political Conference convened for that purpose in Palermo, Italy, on December 12-15, 2000 and entered into force on 29 September 2003. It sets up legal standards to assist parties in adopting legislation to establish criminal offenses, and also establishes frameworks for mutual legal assistance and extradition, fosters law enforcement cooperation (United Nations Office on Drugs and Crime, 2000). The convention also has three Protocols that target specific areas and manifestations of organized crime, such as trafficking in persons, smuggling of migrants, and trafficking in firearms. The Convention aims to prevent and address a broad range of criminal activities effectively, and to protect and assist the victims of trafficking in persons with full respect for their human rights. The Palermo Convention remains among the most ratified international legal instruments. Furthermore, it represents a major step forward in the fight against transnational organized crime and the recognition by member states of the seriousness of the issues posed by it, as well as the need to foster and enhance close international cooperation in order to tackle various issues, which are both directly and indirectly related to organized crime.

To this day, the concept of organized crime serves as a focal point in continuing global discussions on criminal policy. For at least two decades, dating back to the formulation of the abovementioned Palermo Convention, there has been widespread acknowledgment, both nationally and internationally, of the gravity of this issue. There is an increasing willingness to collaborate across institutional and jurisdictional boundaries in endeavors to combat organized crime. However, significant uncertainty exists regarding the nature of the threat (Von Lampe, 2019).

Organized crime thrives worldwide, affecting governance and political processes, and at the same time weakening the advancement of the rule of law. Numerous organized crime groups, especially in democratic and industrialized Western nations, primarily engage in international illegal activities. Such activities include drug trafficking, smuggling of illegal immigrants, human trafficking for sexual exploitation, arms trafficking, trafficking in stolen vehicles, and other transnational illegal practices like money laundering and tax evasion (Kleemans & van Koppen, 2020). Common examples also cover cigarette smuggling (Movchan et al., 2021) and customs fraud (Pidgorodynskyi et al., 2021), various environmental crimes and soil pollution in particular (Movchan et al., 2022). The so-called transit crime as an emerging form of organized crime focuses on generating profits through international illegal trade rather than through traditional methods such as protection, extortion, or the exploitation of monopoly power, commonly known as “racketeering” (more about the meaning of this term later).

Organized criminal groups are flexible in changing or expanding their illicit businesses for profit. They traditionally misuse vulnerabilities and crisis situations such as the COVID-19 pandemic, economic downturns, natural disasters, and armed conflicts exploiting them for their own purposes. Thus, there are a number of similar features between, for example, organized crime and white-collar crime (Lutsenko et al., 2023).

As K. Gooch and J. Treadwell argue, the ‘era of hard drugs’ has been superseded by an ‘era of new psychoactive drugs’, redefining social relations, transforming the prison illicit economy, producing new forms of prison victimization and generating far greater economic power and status for suppliers. These changes represent the complex interplay and

compounding effects of broader shifts in organized crime, among various other factors (Gooch & Treadwell, 2020). Historically, all major shifts in drug trafficking have been related to organized crime. Mexican drug cartels are just the latest example.

On July 25, 2011, the U.S. National Security Staff released a fundamental document – the Strategy to Combat Transnational Organized Crime: Addressing Converging Threats to National Security. According to this strategic document, transnational organized crime denotes persistent groups of individuals who operate internationally with the aim of acquiring power, influence, financial gains, and/or commercial benefits, either entirely or partially through unlawful methods. They safeguard their pursuits through a combination of corruption and/or violence, or by employing a transnational organizational framework and exploiting international commerce or communication channels. The structure of transnational organized crime lacks uniformity, ranging from hierarchical setups to clans, networks, and cells, with the potential to adopt other configurations over time. The nature of their criminal activities

varies, and these criminals exhibit certain characteristics, in particular they:

- 1) engage, at least in some of their activities, in violence or other acts intended to intimidate or make explicit or implicit threats;
- 2) exploit disparities between countries to advance their objectives, enhancing their organization, increasing its influence, and/or avoiding detection or apprehension;
- 3) endeavor to wield influence in government, politics, and commerce through both corrupt and legitimate means;
- 4) strive to shield both their leadership and members from detection, sanctions, and/or legal prosecution through their organizational structure.
- 5) also, their primary objective is economic gain, not only through overtly illegal activities but also through investments in lawful enterprises (U.S. Department of Justice, 2011).

The following diagram (Fig. 1), elaborated by the Global Initiative Against Transnational Organized Crime, demonstrates the 2023 global averages for various criminal markets.

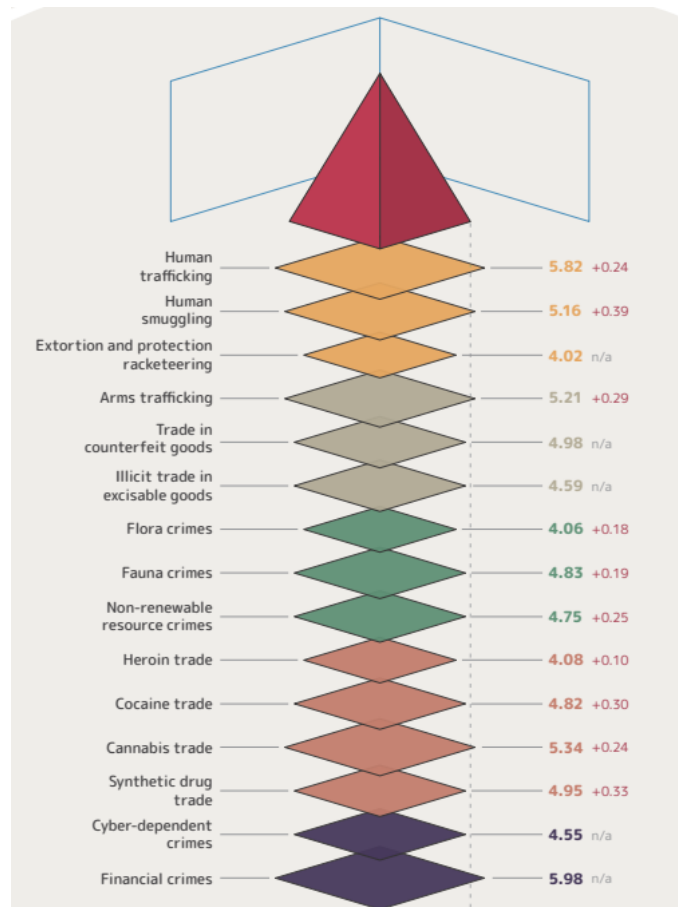


Figure 1. Criminal markets, global averages, 2023.
Source: Mexico Profile (2023).

As put by American commentator Jay S. Albanese, organized crime is a term with a vague and unclear definition in law – thus, the lack of precise definitions results in imprecision. A consensus of some degree over the definition has been established over the years, thus characterizing organized crime as an ongoing criminal enterprise with several key elements:

- a) planned and rational acts carried out by groups of individuals;
- b) crimes that often cater to public demand for illicit goods and services;
- c) the primary objective being financial or material gain;
- d) the use of corruption and intimidation to safeguard ongoing criminal operations.

It is important to note that organized crime pursues financial gain, setting it apart from terrorism, certain hate crimes, or other forms of organized criminal behavior centered on ideology or political objectives (Albanese, 2021).

A quite successful, in our opinion, conceptual attempt of coining the term “organized crime” was made in the EU Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime adopted by the Council of the European Union. According to this document, ‘criminal organisation’ means a structured association, established over a period of time, of more than two persons acting in concert with a goal of committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, to obtain, directly or indirectly, a financial or other material benefit (European Union, 2008). Thus, the European legislator has chosen the formal parameters as background for the definition – the minimum number of members, existence over a period of time, severity of penalty.

Based on the results of their own comparative analyses, some Ukrainian researchers argue that similar criminal associations in the criminal legislation of different states can exhibit both similarities and differences. In specific instances, certain states’ criminal codes encompass diverse criminal associations, utilizing both distinct and overlapping terms (e.g., “criminal association”) within their respective jurisdictions. When examining the criminal law characteristics of organized groups as outlined in the Palermo Convention and criminal organizations defined by Framework Decision 2008/841/JHA, a clear observation emerges: these entities represent

criminal associations of identical nature. The international community recommends criminalization of membership in criminal associations with uniform parameters, even though individual states may employ different terminology. The partial justification for separately criminalizing actions performed by members of organized groups and criminal organizations across different states lies in the consideration of distinct international legal acts, primarily the Palermo Convention and the Framework Decision 2008/841/JHA, by national legislators (Voziuk et al., 2020).

In the ever-shifting landscape of public life and global environment in general, organized criminal activity is also a constantly evolving phenomenon. Take American Mafia for example. As is the common knowledge, Mafia is a network of Italian-American organized crime groups, which emerged in the late 19th and early 20th century, especially in New York and Chicago, as a result of immigration from Sicily and other regions of Southern Italy. The Mafia initially engaged in bootlegging during the Prohibition era, and later expanded into other illegal activities such as drug trafficking, gambling, prostitution, racketeering, extortion, money laundering, and murder. The Mafia also has been infiltrating various legitimate businesses and labor unions, and also influenced politics and law enforcement.

The Mafia as a generic organized crime concept reached its peak of power and influence in the mid-20th century, under the leadership of notorious figures such as Al Capone, Lucky Luciano, Meyer Lansky, Frank Costello, Carlo Gambino, and John Gotti. However, the Mafia also faced increasing challenges from law enforcement and government, which used anti-racketeering laws, such as the Racketeer Influenced and Corrupt Organizations (RICO) Act, to prosecute and convict high-ranking mobsters and weaken the Mafia. The Mafia also suffered from internal conflicts, defections, and competition from other criminal organizations. Although it still operates today, it is a much less powerful and influential organization than it used to be in the past (McIntosh, 2023).

The organizational structure of an American Mafia family (based on the typical structure of five New York crime syndicates), which bears more or less resemblance to organized criminal structures in other countries, is best explained in Figure 2.

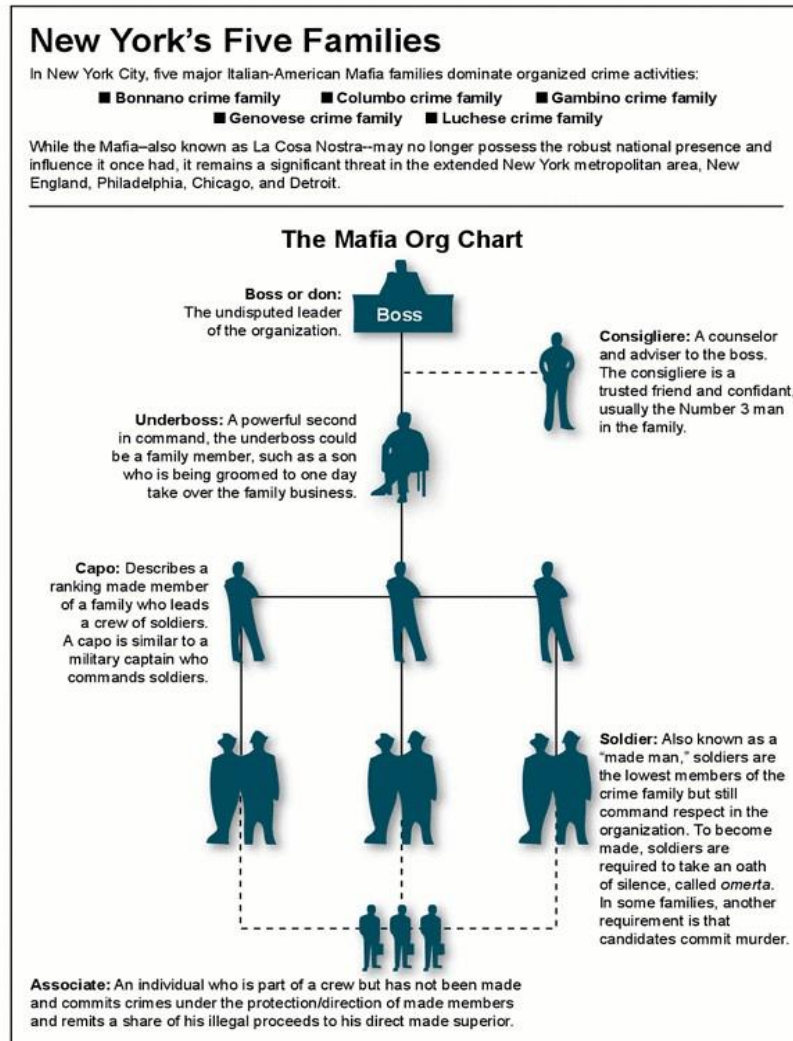


Figure 2. The Mafia Org Chart
Source: FBI. (2023).

Here is just one (of many) illustrative example of organized crime in the United States operating and then brought to justice, which refers to the above-mentioned Mafia Org Chart. On September 14, 2021, in federal court in Brooklyn, a 19-count indictment was unsealed charging 14 defendants, including 10 members and associates of the Colombo crime family of La Cosa Nostra and a member of the Bonanno organized crime family, with various offenses including labor racketeering involving multiple predicate acts of extortion conspiracy, attempted extortion and extortion, extortionate collection of credit conspiracy, extortionate collection of credit and money laundering conspiracy. The charges in the indictment against the Colombo crime family members related to multiple charged schemes in a long-running effort by the crime family to infiltrate and take control of a Queens-based labor union (the "Labor Union") and its affiliated health care benefit program (the

"Health Fund") that provides medical benefits, including dental, optical and pharmacy benefits, to the members of the Labor Union, and to a conspiracy to commit fraud in connection with workplace safety certifications (United States Attorney's Office, 2021).

Also, a brief overview the above-mentioned RICO Act and its impact on putting organized crime in America down will be of relevance here. The history of the Act, which at the highest legislative level embodies American counteraction to organized crime, including economic crime, dates back to 1970. According to its legislative design, RICO was supposed to introduce a new "game plan" in the form of an autonomous set of legal grounds for applying criminal sanctions for various crimes committed by persistent criminal associations (criminal organizations). By targeting specific criminal organizations, Congress sought to overcome the

significant negative impact that organized crime has on American society. The legislative history of RICO has not only repeatedly demonstrated the need to reduce the impact of organized crime on legitimate business, but also actualized the need to protect general public from those who run such organizations to the detriment of public interest.

According to the Black's Law Dictionary, a widely recognized legal reference authority, RICO is a federal statute which has been designed to combat organized criminal activity and preserve the integrity of the marketplace by providing for the control and prosecution of persons who engage in or conspire to engage in racketeering activity. Accordingly, racketeering is explained in this Dictionary as: 1) a system of organized crime that traditionally involves extortion of money from businesses through threats, violence or other illegal means and 2) manifestation of illegal activities (e.g., bribery, extortion, fraud or murder) which are carried out within a criminal enterprise (including any criminal syndicate), which, in turn, is controlled or owned by persons directly involved in criminal activities (Garner, 2014).

Among various academic studies devoted to clarifying the legal content and law enforcement potential of the RICO Act, the study by A. Vozniuk is noteworthy. In his monograph "Criminal Liability for the Establishment of and Participation in Criminal Associations", this author comprehensively analyzes the block of criminal law provisions of RICO, calling this Act a modern example of a conditional model of entrepreneurship in the context of combating organized crime. He identifies the following features (characteristics) inherent in a "criminal enterprise" as a basis for criminal liability for organized criminal activity: 1) the enterprise model does not require proof of an agreement between a group of accomplices – in a simplified form, the RICO model is focused on the actual criminal activity of the "enterprise"; 2) in the RICO model, the concept of "enterprise" is not used in the standard sense – based on part. 4 of § 1961 of the US Criminal Code, it includes any individual, partnership, corporation, association or other legal entity, as well as any union or group of related persons not being legal entities; 3) the purpose of RICO is to punish persons involved in a "racketeering activity" scheme; 4) the key role in the issue of criminal prosecution under RICO is played by the proof of specific predicate offenses defined in the law that embody racketeering activity; 5) one of the main advantages of the RICO model compared to

other models is its ability to combine several predicate offenses into a separate RICO offense that reflects the organized nature of criminal activity (Vozniuk, 2018).

It is worth adding that while in 1970, when RICO was enacted, this Act had embodied thirty predicate offenses, today there are over a hundred such crimes. Such significant quantitative growth is generally in line with the trend in American criminal law over the past fifty years of increasing (not always properly justified) the number of federal crimes. We are talking about the intensively debated (and also controversial) phenomenon of excessive criminalization of acts in American society.

As an interim observation, criminal legislation of most world jurisdictions does not offer analogues to the comprehensive legislative mechanism for combating organized crime embodied in the US within the extensive and quite effective RICO provisions. At the same time, American law and practice in this area can and should be compared to available domestic provisions, regulatory and law enforcement developments. A priori, the possibility of such useful (not only in the theoretical context) comparison will allow various national legislators, law enforcement agencies and courts to advocate for a much more active approach to fight organized crime.

Overall, the ongoing serious battle against organized crime, as American experience illustrates, can be effective if there are such factors in place: public demand, political will, both flexible and "tough on crime" legislation and also motivated and uncorrupt law enforcement.

Nowadays any unbiased observer can see a drastic contrast between effective cracking on organized crime in the U.S. and almost zero progress on the same law enforcement front, let us say, in Mexico. Indeed, organized crime syndicates in this country, namely notorious drug cartels, are prospering in both money-making and violence and at the same time even the national military cannot deal with them. Among the major reasons for such negative situation is the prevailing corruption in Mexican government and the society at large.

Mexican drug trafficking organizations exercise control over the US's heroin market, with almost all heroin confiscated and tested in the US coming from this South American country. Mexican drug trafficking organizations are major actors in the global cocaine trade, acting as

intermediaries and transporters of the drug worldwide. Mexico is an important transit country for cocaine from South America to the US and increasingly to the EU. Criminal groups have become more involved in Central American and Colombian cocaine trafficking markets, and territorial conflicts between them over control of north-bound cocaine shipment routes to the US have caused extremely high levels of violence across Mexico. At the same time, Mexican cartels are involved in methamphetamine trafficking to EU ports for further distribution inside and outside the EU (Europol, 2022).

Mexico's drug trafficking organizations are some of the most advanced mafia-style groups in the world. They have considerable territorial control throughout the country and co-opt state institutions through corruption and coercion. Besides drug trafficking, these organizations engage in other criminal activities such as oil theft, human trafficking, kidnapping, and extortion, thus making billions of dollars every year. Mexican drug trafficking organizations fuel violence across the country using various firearms, including military-grade weapons, resulting in fierce territorial conflicts with rival drug trafficking organizations and state security entities. The state's no-confrontation policy and perceived impunity worsen retaliatory attacks against law enforcement initiatives (Mexico Profile, 2023).

Thus, Mexican organized crime might serve as a case study for the wide scale and systematic impact on the society in any given nation when there is no law enforcement pushback but at the same time the country is plagued by the endemic corruption.

There is a variety of law enforcement tools available to the international community in its war against organized crime in various parts of the world. For example, as the leading global police organization, Interpol has created the Organized and Emerging Crime Strategy to help its 190-member countries effectively deal with the changing nature of organized and emerging crime in the modern era. The main objectives of the five-year (2016-2020) strategy have been to: enable member countries to target and disrupt cross-border criminal networks; and to identify, analyze and respond to emerging criminal threats. In order to tackle the dual challenge, the Interpol strategy outlines four interrelated action tools:

- 1) *identification of criminal networks* – identifying key players involved in serious

transnational crime, related criminal networks and their main activities;

- 2) *illegal trafficking and illicit markets* – fighting criminal networks involved in all kinds of illegal trafficking and identify and address new trends and illicit markets;
- 3) *enabling crimes and criminal convergence* – elaborating on connections between different types of crimes and how one crime can facilitate another, and help police in stopping such enabling crimes from leading to more criminal activity;
- 4) *illicit flows of money and assets* – disrupting profits of organized criminal networks by tracing and preventing the movement of criminal assets, as well as freezing and confiscating them (Interpol, 2021).

Obviously, helping all member countries to combat various forms of organized transnational crime is vast and complex. The Interpol strategy focuses on the most serious criminal threats as well as various emerging forms of crime. It builds on the law enforcement agency's experience in leading and coordinating major cross-border operations against multiple types of crimes and achieving significant results in terms of arrests and seizures of illicit commodities.

One of the major online instruments for monitoring the status of organized crime parameters is the Global Organized Crime Index (hereinafter – the Global Index). It is a multi-dimensional tool that measures the level of criminality and resilience to organized crime for 193 countries along the three key pillars – criminal markets, criminal actors and resilience. The tool is supported by over 400 expert assessments and evaluations by the regional observatories. The aim of the Index is to provide metrics-based information that would help policymakers, continental and regional bodies to prioritize their actions based on a comprehensive assessment of where vulnerabilities lie, and provide them with the means to evaluate the effectiveness of their responses to reduce the impact of the organized crime globally.

Analytical tools like this one help in comprehending some key issues surrounding the fundamental of organized crime and its core principles of operation, largely driven by income-earning motivation.

Mexican organized crime and its negative impact both domestically and on its neighbor – the U.S., current Interpol initiatives, as well as analytical data on the current status of organized crime in

various jurisdictions – all this can be labeled collectively as transnational organized threat.

Structurally solid and long-lasting criminal entities like Sicilian mafia groups, Japanese Yakuza groups, Hong Kong Triads, and Russian mafia groups have either existed or still exist in recent history. However, in numerous democratic and industrialized Western nations such organizations are either no longer present or represent exceptions rather than the norm. The primary factor contributing to this is that illicit markets, frequently international in scope, often coupled with robust government institutions and effective law enforcement, impede the development of extensive and enduring criminal organizations (Kleemans & van Koppen, 2020).

Finally, and within the scope of our comparative analyses, we will turn to organized crime in Ukraine. There organized crime takes on various forms, with a notable emphasis on criminal communities exhibiting characteristics of organized, recidivist, and professional criminal activities. Participants in these communities adhere to specific rules, follow established traditions, have developed an extensive infrastructure, and engage in effective collaboration with organized criminals in other countries. A particular concern with such communities is that prosecuting individual members and their associations does not necessarily lead to their dissolution. Instead, one criminal figure is often replaced by another, thus allowing the continuation of organizing, coordinating, or facilitating criminal activities within a specific territory. This, in part, explains why, despite authorities' efforts to eradicate this form of organized crime, it persists successfully beyond the post-Soviet states.

Ukrainian scholars understand the process of forming a criminal organization as the one consisting of two independent stages: 1) *preparatory* (that is, support for the creation of a criminal organization: a thorough, detailed assessment of the favorable situation and the possibilities of its use for the creation of a criminal organization of a specific focus; selection based on objective calculation of the optimal option/way of its formation; determination of the structure of the criminal organization, its needs in human and other resources, the general and components of the target and functional orientation criminal activity, subordination scheme of structural parts and individual participants, quantitative and qualitative characteristics of the organization and its structural parts; development of the

conspiracy system and rules of internal security, etc.) and 2) *actual creation* of a criminal organization (search, study and selection candidates, attracting them/achieving an agreement/obtaining their consent to join a criminal organization to commit joint purposeful criminal activity; distribution/consolidation of roles between persons who have entered/accepted into the community; determination of their personal position and duties in the organization/structural part, line of conduct, etc.) (Kovalchuk, 2013).

Just as in other national (or ethnic) criminal organizations, the structure of the criminal community in Ukraine can be described by several key elements. Ukrainian commentators name five such elements.

Firstly, at the apex of its hierarchy are “code-bound thieves”, commonly referred to as “thieves in law” or simply “thieves”, thus signifying individuals bound by a criminal code.

Secondly, the primary function of the criminal community is to organize, control, and coordinate criminal and illegal activities within specific territories or areas. Notably, exercising control over an ordinary crime is a distinctive feature of a mafia-type organization, setting it apart from other forms of organized crime.

Thirdly, the economic foundation of this organized crime variant lies in a so-called “common fund”, financed by contributions from both legal and illegal activities. This fund serves collective needs of the criminal world, including support for individuals incarcerated in detention centers.

Fourthly, the criminal world adheres to specific customs and traditions that have significantly evolved over time. While subject to transformation, these customs are predominantly observed among community members and other criminal offenders.

Lastly, criminal community features a collegial management body known as the meeting. This body addresses the most critical issues related to criminal and illegal activities, contributing to the organized and structured nature of the criminal network.

Moving toward the end of our scholarly discussion, it should be noted that the impact of Russia's invasion on the criminal underworld is seismic, akin to an earthquake. The resilient Ukrainian mobsters, traditionally closely aligned

with their Russian counterparts, have overwhelmingly ceased criminal collaboration. This significant shift is not limited to ideological changes; it has tangible effects on illicit activities such as heroin smuggling. The rerouting of lucrative smuggling routes has widespread repercussions, while influencing prices and profits for criminal syndicates operating thousands of miles away. If such disruption endures, it has the potential to reshape the whole landscape of global crime. Indeed, such changes are already underway, both in Ukraine and in other countries (The Economist, 2023).

As yet another organized crime phenomenon, which is emerging at the background of current war in Ukraine, is humanitarian aid embezzlement – immoral and now illegal behavior on a large scale, which we have previously researched at length (Kamensky et al., 2023).

We also agree with the scholars, who write that the strategy of combating organized crime in Ukraine should primarily include combating corruption, because even in the presence of ideal laws on criminal liability, representatives of organized criminal activity will avoid criminal sanctions, if not completely, then at least to a fair degree. Indeed, in the recent years Ukrainian commentators observe a surge of corruption-related offenses among various organized criminal groups (Vozniuk et al., 2021). This emerging issue needs to be addressed in a fast and decisive manner.

Also, due to the unprovoked Russian aggression against Ukraine, the migration-related organized crime also causes big concerns for both law enforcement and the government of Ukraine in general (Lutsenko, 2022).

Nowadays organized crime is also connected to terrorism financing. In the past, money.

Thus, we can make a conclusion that nowadays almost any world jurisdiction has some form of organized crime – such illegal “societies” have their distinct features; however, their common element is organized (often hierarchical) and well-preserved structure.

Conclusions

In the course of our research we were able to formulate the following conclusions.

In foreign criminal legislation, distinct terms are employed to characterize criminal groups

(criminal organizations), and diverse approaches are adopted for the criminalization of their activities. National legislation of different states outlines varying legal strategies for combating organized crime. Specifications for the criminalization of the activities of organized criminal groups and members of such organizations are encapsulated in various international legal instruments.

Nowadays, transnational organized crime presents a direct and further escalating menace to such vital areas as public health, safety, and national security. Criminal organizations operating across borders are involved in a wide spectrum of unlawful activities, including drug and weapons trafficking, migrant smuggling, human trafficking, cybercrime, intellectual property theft, money laundering, wildlife and timber trafficking, illegal fishing, and illegal mining.

Such networks are continuously growing in size and influence, both, as we have shown, within the United States, Ukraine, Mexico and elsewhere. Furthermore, transnational criminal organizations jeopardize national security by undermining security and stability of allied and partner nations, eroding the rule of law, fostering corruption, serving as proxies for hostile state activities, directly or indirectly funding insurgent and terrorist groups, depleting natural resources, posing risks to human health and the environment, contributing to climate change through illegal deforestation and logging, and exploiting and endangering vulnerable populations.

In certain regions criminal organizations possess capabilities akin to states, disregarding sovereign borders, compromising the integrity of democratic institutions, threatening the legitimacy of fragile governments, and consolidating their power through intimidation, corruption, and violence. Effectively addressing the threat posed by organized criminality necessitates a unified federal framework, supported by a comprehensive whole-of-government initiative executed in cooperation with local, national and international partners, also while collaborating with mass media and civil society activists.

The bottom line argument is as follows: organized crime in the XXI century evolves further and thus strong legislative and law enforcement responses to this dangerous phenomenon should evolve even faster.

Bibliographic references

- Albanese, J. (2021). Organized Crime as Financial Crime: The Nature of Organized Crime as Reflected in Prosecutions and Research. *Victims & Offenders*, 16(3), 431-443.
- Berisha, M. (2014). International Cooperation in Combating Organized Crime. *European Academic Research*, II(1), 354-372.
- Cingano, F., & Tonello, M. (2020). Law Enforcement, Social Control and Organized Crime: Evidence from Local Government Dismissals in Italy. *Italian Economic Journal*, 6(2), 221-254.
- Europol (2022). *Complexities and conveniences in the international drug trade: the involvement of Mexican criminal actors in the EU drug market*. Retrieved from: <https://acortar.link/nDvPJO>
- European Union (2008). *Council Framework Decision 2008/841/Jha Of 24 October 2008 on the Fight Against Organised Crime. Official Journal of the European Union*. Retrieved from: <https://acortar.link/06gipv>
- FBI (2023). *Mafia Org Chart*. Retrieved from: <https://www.fbi.gov/file-repository/mafia-family-tree.pdf/view>
- Garner, B. (2014). *Black's law dictionary*. Tenth Edition. St. Paul: Thomson Reuters. ISBN: 0314613005
- Gooch, K., & Treadwell, J. (2020). Prisoner Society in an Era of Psychoactive Substances, Organized Crime, New Drug Markets and Austerity. *British Journal of Criminology*, 60(5), 1260-1281.
- Interpol. (2021). *Global Strategy on Organized and Emerging Crime*. Retrieved from: <https://www.interpol.int/Crimes/Organized-crime>
- Kamensky, D. (2020). *Liability for economic crimes in the United States of America and Ukraine: a comparative legal study: a monograph*. Kyiv, Ukraine: Dakor Publishing House. (in Ukrainian)
- Kamensky, D., Dudorov, O., Savchenko, A., Movchan, R., & Danylevska, Yu. (2023). Criminal liability for humanitarian aid embezzlement during war: the case of Ukraine. *Cuestiones Políticas*, 41(77), 760-776. <https://doi.org/10.46398/cuestpol.4177.50>
- Kleemans, E., & Van Koppen, V. (2020). Organized Crime and Criminal Careers. *Crime and Justice*, 49(1), 385-423.
- Kovalchuk, V. (2013). *Criminal law means of combating creation of a criminal organization: a monograph*. Ukraine: LvDUVS. (In Ukrainian)
- Lutsenko, Yu. (2022). Current issues of combating organized crime in the context of the state's migration policy". *Carpathian Legal Gazette*, 6(47), 132-136. <https://doi.org/10.32782/pyuv.v6.2022.27>
- Lutsenko, Yu., Motyl, V., Tarasiuk, A., Areshonkov, V, Diakin, Y., & Kamensky, D. (2023). Globalization of White-Collar Crime: Far and Beyond National Jurisdictions. *Political Questions*, 41(76), 64-75. <https://doi.org/10.46398/cuestpol.4176.03>
- Mcintosh, M. A. (2023). *History of the American Mafia*. About Us. Retrieved from: <https://brewminate.com/a-history-of-the-american-mafia/>
- Mexico Profile (2023). *Global Organized Crime Index*. Retrieved from: <https://ocindex.net/country/mexico>
- Movchan, R., Dudorov, O., Vozniuk, A., Areshonkov, V., & Lutsenko, Yu. (2021). Combating commodity smuggling in Ukraine: in search of the optimal legislative model. *Amazonia Investiga*, 10(47), 142-151. <https://doi.org/10.34069/AI/2021.47.11.14>
- Movchan, R., Vozniuk, A., Kamensky, D., Koval, I., & Golovko, O. (2022). Criminal and legal protection of land resources in Ukraine and Latin America: comparative legal analysis. *Amazonia Investiga*, 11(51), 328-336. <https://doi.org/10.34069/AI/2022.51.03.33>
- Ohr, B. (2012). Effective Methods to Combat Transnational Organized Crime in Criminal Justice Processes. *116-th International Training Course Visiting Experts' Papers, Resource Material Series*. No. 58, 40-60. Retrieved from: https://unafei.or.jp/publications/pdf/RS_No58/No58_08VE_Ohr.pdf
- Pidgorodnyskyi, V., Kamensky, D., Bolokan, I., Makarenko, T., & Samilo, H. (2021). Smuggling or violation of customs rules: actual questions of application of administrative and criminal liability. *Cuestiones Políticas*, 39(70), 800-814. <https://doi.org/10.46398/cuestpol.3970.48>
- The Economist. (2023). *How the war split the mafia*. Retrieved from: <https://acortar.link/EdURuY>
- United Nations Office on Drugs and Crime (2000). *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*. Retrieved from: <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>
- United States Attorney's Office (2021). *14 Defendants Indicted, Including the Entire Administration of the Colombo Organized*



- Crime Family*. Retrieved from: <https://acortar.link/tR0975>
- U.S. Department of Justice (2011). *Strategy to Combat Transnational Organized Crime: Addressing Converging Threats to National Security*. Retrieved from: <https://acortar.link/m7uddH>
- Von Lampe, K. (2019). Tackling Organized Crime: From Theory to Practice. *Crimen*, 10(3), 215-224.
- Vozniuk, A., & Dudorov, O. (2021). *Criminal liability for crimes committed by a criminal community: analysis of legislative novels*. In: The latest criminal law research - 2021: Almanac of scientific papers, edited by Prof. E.L. Streltsov, Prof. O.V. Kozachenko, PhD O.M. Musychenko. Mykolaiv: IPI NU OIA, Odesa, Ukraine. (In Ukrainian)
- Vozniuk, A. (2018). *Criminal liability for the creation of criminal associations and participation in them*: monograph. Kyiv, Ukraine: FOP Maslakov Publishing. (In Ukrainian)
- Vozniuk, A., Dudorov, O., Tytko, A., & Movchan, R. (2020). Implementation of UN and EU recommendations on criminalization of organized crimes. *Amazonia Investiga*, 9(28), 234-240. <https://doi.org/10.34069/AI/2020.28.04.26>
- Vozniuk, A., Kamensky, D., Dudorov, O., Movchan, R., & Andrushko, A. (2021). Unconstitutionality of criminal liability for filing inaccurate information in Ukraine: critical legal analyses. *Questiones Politicas*, 69(39), 133-145. <https://doi.org/10.46398/cuestpol.3969.07>