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Problems of Detecting Economic Crimes in Ukraine (1996–2021)

Gerasymenko Larysa
PhD of Juridical Sciences, Associate Professor, Head of Department of Economic Security and Financial Investigations of the National Academy of Internal Affairs, Kiev, Ukraine
ORCID ID 0000-0001-6340-1061 *lora-gera@ukr.net*

Morhun Nadiia
PhD of Juridical Sciences, Professor of Department of Economic Security and Financial Investigations of the National Academy of Internal Affairs, Kyiv, Ukraine
ORCID ID 0000-0002-2997-9975 *Morgun.nadiy@gmail.com*

Pavlovska Nataliia
PhD of Juridical Sciences, Associate Professor, Professor of Department of Civil Law and Process of the National Academy of Internal Affairs, Kyiv, Ukraine
ORCID ID 0000-0003-3311-0364 *wwwpav@gmail.com*

Marchevskyi Sergiy
PhD of Juridical Sciences, Associate Professor of Department of Economic Security and Financial Investigations of the National Academy of Internal Affairs, Kyiv, Ukraine
ORCID ID 0000-0002-3623-4461 *marik1984@ukr.net*

Shevchuk Oleksandr
PhD of Juridical Sciences, Associate Professor of Department of Economic Security and Financial Investigations of the National Academy of Internal Affairs, Associate Professor, Kyiv, Ukraine
ORCID ID 0000-0002-5513-6517 *alexosvita@ukr.net*

Abstract

Criminological investigation of correlation between corruption and organized economic crime testifies that organized crime and corruption first of all endangers national security of Ukraine, its further development, ensuring constitutional system, proper functioning of all political-economic system. That is why not accidentally the Decrees of the President of Ukraine “On Complex Earmarked for a Specific Purpose Program for Fighting Criminality” and “On Complex Program in Preventing Criminality” define fighting organized crime and corruption in an economic sphere as one of priority directions. Detecting of organized crimes committed under not obvious circumstances is a complicated and multifactored. The necessity of quick and correct solving informational, methodological, tactical, psychological, technical and many other issues predetermined active participation of inquiry and search workers, the Security Service, militia, its operative detachments, the Procurator's Office, experts, professionals, and the public. That is why a complex approach to fighting crime, including economic one, needs further development, also improvement in co-operation between all law-enforcement and controlling organs is needed. The work in this direction should be considered one of priorities for state organs nowadays and in future.

Keywords*:* economic crime, state management, corruption crimes, law enforcement units, organized economic crime.

Introduction Organized crime in an economy sphere in reality can not exist without support and close co-operation with power structures. Such symbiosis between criminal groups and corrupted officials was created under influence of some political and economical process. Lately Ukrainian political lexicon acquired a term "oligarch" as a proof of uniting crime, politics and business. This symbiosis is a real danger for society democratic development. Nowadays "big businessmen" mainly use financial floods from the state budget using political shelter because in our country it is impossible to make big business without personal relations. It is a pity but modern legislation and practice of its applying can not counteract criminal actions of "oligarchs".

State-administrative regulating of economic activity and monopolistic state property over most economic objects in a beginning of economy reforming period made the main condition for development of corrupted economic crime. Economy reforming, changing of property forms, entrepreneurship development, price policy liberalization, privatization of state property, establishing new property and land relations - bureaucracy apparatus conducted all these transformations, it had a right without control on a very narrow legal basis to handle huge country resources. This caused the attractiveness of state apparatus for criminal groups.

Organized crime began to transform quickly into closeness with bureaucrats who had both political and economic power. State power structures because of their decentralization during transformation process could not counteract this approach. Besides, the apparatus had a clearly mercenary objective: on one hand, as long as possible to save its "feudal-bureaucratic status" in conditions of economic and political transformations in a state; on the other, to get its own profit share from state property.

The need in legalizing criminal economic activity made organized criminal groups to go for establishing closer contacts with bureaucracy apparatus. The main aim of pressure on power structures was demanding different privileges, which gave a possibility to have bigger profits, evade taxation and criminal responsibility. Bribering of officials ("corruption" in Latin is bribery) became the most widespread form of such pressure. Officials, as experience testifies, themselves rather often search contacts with criminal elements to sell their services more expensively. If in the middle 80-s up to 33% of criminal money was spent on bribery of state and law-enforcement organs representatives, then nowadays as researches testify - up to 50%.

Thus the connection between organized crime and corruption in economy sphere was established not as single power excesses but as a certain system, special everyday relations' infrastructure, which includes representatives of law- enforcement organs and controlling organs, political elite. All this makes a problem of preventing crime considerably difficult.

The research results give grounds to draw such conclusions:

1. The problem of organized economic crime and corruption in Ukraine has become dangerous. It has widely spread in all society layers, among all power branches.

2. Corruption of ruling political and economic elite has become a norm of behavior, not an exception. It remains unattainable for law enforcement organs, which are partially infected by it and do not have sufficient possibilities for fighting it.

3. Conglomerate of corrupted bureaucracy, organized crime and criminal business created oligarch structures, which became unattainable for social and legal control, and function according their own laws.

4. Corruption and organized economic crime exceed state boundaries. Its financial power ruins state, international power and economy institutes, endanger social institutions, democracy, human rights, moral grounds of a society and makes economic development difficult.

5. Criminal justice system can not counteract economic and corruption crime. It is directed mostly at detecting and criminal prosecution of persons committed traditional criminal acts, which, as a rule, do not have considerable stage of society danger and are committed obviously. The power, economic and political elite happen to get into criminal responsibility sphere only in single cases.

6. The basis of organized economic crime in the state includes criminal bureaucracy co-associations, which use state and public institutions for its own purposes.

7. Social and criminal-legal control over organizational-corruption crime in the state is extremely weak. More than that, the state itself has enough possibilities to influence actually the activity of law-enforcement organs.

8. Numerous declarations of higher state officials and current anticorruption legislation are directed at counteracting corruption in all power branches, and do not find their adequate practical application.

9. Anticorruption legislation is used only at random, mainly concerning the lowest categories of civil servants and officials, or some high-level officials which are completely compromised for the public and their own elite.

10. Public conscience has clear directions that bribery and organized criminality are features intrinsic to our society.

11. Directed struggle against corruption can not be carried out as a result of single and short-term actions of any activity and severity level, it needs long-term social-economic, political and legal transformations. This activity must be based on uniting preventive and repressive measures. Preventive measures of generally-social and special-criminological character should play the priority role. These measures would create a transparent system for effective state and public supervision [1].

Legal basis for cooperation constitutes laws and by-laws, determining objectives and ways of co-operation, its organization, rights and duties for subjects of this activity. In a whole as cooperation of all bodies and officials during crime detecting and inquiry process, the coordinated activity of different chains (elements) in one or several organizational systems, directed at reaching general goal with the least means, time and money needed, should be meant [2].

In modern conditions the system of cooperation between law-enforcement and controlling organs while investigating economic crimes includes such types: general cooperation between law-enforcement organs; co-operation of an investigator with operative detachments; co-operation with an inquiry organ; cooperation with the Procurator’s Office; cooperation of an investigator with specialists and experts [5]; cooperation with controlling organs; co-operation with the public.

Concerning an issue of increasing the efficiency in co-operation between law enforcement and controlling organs, a poll and interview were carried out. We interviewed 128 workers of the Procurator’s Office, Military Procurator’s Office, militia, state institution in fighting economic crime, administration in fighting organized crime (UBOP), tax militia, tax inspection, the Security Service of Ukraine (SBU), Crimean Autonomic Republic regional Administration of National Bank of Ukraine, 12 regions of Ukraine, Kyiv and Sevastopol cities.

The interviewed among the most often communicating law-enforcement and controlling organs when investigating economic crimes named follows: the Procurator's Office - tax militia administration; controlling auditing administration (KRU) - UBOP - state institution in fighting economic crimes (GSBEP) - SBU - state tax administration (GNAU); the Procurator's Office - UBOP - GSBEP - tax militia GNAU; tax inspection - administration of the Interior (UVD); tax militia - tax inspection; KRU - tax militia - GSBEP - the Procurator's Office; inquiry organs - criminal search; UBOP and GSBEP - scientific-research institute of forensic expertise; KRU - GSBEP administration [3].

The most widespread shortcomings in interaction of special detachments in fighting organized crime of the Interior and the Security Service are following: insufficient information exchange (hiding) noted 25% of the interviewed; uncoordinated actions - 20%; conflict of interests - 15% (as some respondents told "everyone has his own figures, they work for good statistical reports and are not interested in a final result"); low level of qualification and insufficient professional training - 12%.

A complicated mechanism of committing economic crimes predestines the necessity of wide attracting special knowledge into inquiry process. Among forensic expertise which are the most often applied while investigating economic crimes, 69,4% of respondents mentioned forensic-accounting expertise, 43,8% - handwriting expertise, 37,5% - technical-criminalistic expertise of documents, 34,4% - forensic-commodity expertise, 28,2% - financial-economic one, 18,7% - expertise of banknotes, 12,5% - engineering-technical, 9,4% - engineering-technological and planning- economical, 4,2% - expertise of materials [3, 5].

Concerning shortcomings in information exchange between law-enforcement and controlling organs, 20% of respondents noted that incomplete information is provided, 13,3% marked that the legaslatively set mechanism to realize information exchange is absent; 10% - insufficient technical possibilities for information exchange are provided; 7,2% - actual absence of information exchange. Besides, the respondents noted existed inter-departmental frictions: violation of assignments fulfillment terms; interdepartmental "card system" ratios (as a result every one works only for his own per cent); absence of close co-operation; duplicating the work of many institutions and functions; unfair competitiveness and rivalry even inside the Ministry of the Interior, not to mention other departments; formalism in solving some problems; lack of co-ordination in actions; poor grounds for reasons why law-enforcement and controlling organs require information; absence of bilateral information exchange; insufficient professional training level for controlling organs' workers; poor interaction of tax inspections with district departments of the Interior; conducting the audits, revisions (trading places, currency exchange points, etc.) without tax inspectors [3, 4].

Conclusions According to all stated above I can propose the following main directions for improving the work of named before organs and departments: chiefs of law-enforcement and controlling organs (especially Procurator's Office) should pay more attention to preparing and conducting joint seminars, co-ordination and operative meetings (e.g. concerning new legislation issues or current problems in fighting economic criminality); use more efficient other interaction kinds and forms, to achieve it more often apply specially worked out by all law-enforcement and controlling organs engaged in fighting economic criminality system; to improve interaction on level of chiefs in higher organs and departmental chiefs, which will be a basis for close co-operation, also it will positively tell on information exchange and terms for fulfillment of assignments; in statutory acts, regulating the activity of different law-enforcement and controlling organs, it should distinguish their rights and duties to expel duplicating of functions and unhealthy competitiveness; to share advanced co-operation experience; it is necessary to work out "Regulations on Interaction Between Law-enforcement and Controlling Organs", in which to foresee first-rate implementation power structures' assignments; more attention should be paid to working out and correct implementation of mutual statutory acts, instructions and recommendations.

In its turn this demands: increasing effectiveness in activity of special organs on detecting facts of criminal behavior; conducting special operative-search actions for detecting criminals; appropriate financial, technical, criminalistic, scientific-methodological support of these actions [3, 4].

To improve the activity of special organs engaged in detecting corruption and economic crimes it is necessary: to redirect the mentioned above special organs from detecting petty corruption facts to detecting the most dangerous crimes, and displays in the most important spheres of state life and in spheres where this crime has became widespread; to work out and implement into the activity of special organs necessary methodologies concerning detecting and collecting information about facts on corruption at different levels of state administration, including the highest, in spheres on distributing state money, privatization, health protection, education, other spheres of public and state life; to determine clearly the order of complete and in time-registration of notifications on committed crimes and other crimes, to establish legal responsibility for violating it by workers of law-enforcement organs; to solve existing in current legislation collision concerning a way of granting information to law-enforcement organs related to money and property of certain legal persons and individuals; unify and concretize in a one legislation act conditions and the way of granting mentioned above information to law-enforcement and other organs; to define concrete mechanism of interaction for special organs engaged in detecting malfeasance and other organs, which legislation granted power of operative, technical, informational and other assistance in fighting them.

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