

CHAPTER 19

ORGANIZED CRIME IN ESTONIA

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1. Introduction

The existence of organised crime in Estonia is witnessed since April 1996, when the parliament of Estonia has passed several changes into criminal code. Organised crime groups, that have existed and functioned before the paragraph appeared in criminal law, have grown from gangs that operated several forms of protection racket in early 90s.

In spite of lack of appropriate legislation, Estonian Police Board has established separate sub-division to combat organised crime already in 1993. Another institution in Estonia, whose aim is to combat organised crime, is Estonian bureau of Interpol. Before 1996 the only definition of organised crime used in Estonia was the one given by Interpol. Interpol defines organised crime as any enterprise or group of persons engaged in a continuing illegal activity for the purpose of receiving illegal profits and continuance of the enterprise regardless of national boundaries. By the definition given in Estonian Penal Code, criminal alliance is a stable group of three or more persons associated for the purpose of committing first and second degrees' offences.¹ A division of labour is one of distinctive features of this kind of group.

These two definitions, both used in Estonia, do not coincide. The first definition emphasises the number of people involved, division of labour, and seriousness of criminal offences. The second definition stresses mainly

the illegal and international character of organised crime group activities. Although Estonian law enforcement officials consider including the paragraph on organised crime into criminal law positive, the definition of criminal alliance (organised crime) is far from ideal.

So far as offences committed by members of organised crime groups were treated as traditional crimes before 1996, the official data on organised crime in Estonia do not exist. Unfortunately, almost no research was done on this field, especially by Estonian authors. Very often Mass Media is the only source of information, mainly exaggerated, about organised crime. The situation determined the method used for the presented research. The experiential information used in this paper was obtained from interviews conducted with law enforcement officials. Officials from Estonian division of Interpol, Police board, Security Police as well as the members of Estonian Crime Prevention Committee were interviewed. The interviews did not follow any strict structure. In the beginning of discussion each person was asked to give a definition of the phenomenon, to characterise it, as well as to evaluate the extent of organised crime in Estonia. Earliest definition of the phenomenon helped the further exploration of the issue.

The aim of presented paper is to explore the issue that received insufficient attention in Estonia. The hypothesises stated here and conclusions drawn should not be treated as the final results of research. The author considers them rather a starting point for the further investigation.

2. The Nature and Extent of Organised Crime

To find out the characteristics of phenomenon under study would be easier when comparing it with something that already has precise definition. The very expression “organised crime” suppose that this phenomenon can be compared on the one hand, with the business organisations and, on the other hand, with the groups of criminals who occasionally come together to commit traditional crimes. The characteristics, that Estonian experts listed in their interviews, are common for any organised crime group, and could be used to define the phenomenon in broader sense.

Firstly, organised crime has the temporal dimension or, in other words, important is the length of time the criminal group exists. This feature distinguishes a group of “independent” criminals from organised crime group. While “individual” criminals get together to commit one or two crimes, organised crime group is acting on regular basis.

Secondly, the regular activities of criminal groups have definite pur-

pose. These stable groups are operating in order to get illegal profits. In the struggle for maximising the long-term profits, organised crime uses violence and corruption.²

Thirdly, the most important are probably certain structural characteristics of organised crime group. Organised crime group has hierarchical structure. Members of criminal organisation have their tasks and their position within organisational hierarchy. The qualified operating of organisation requires strong control by top-level management within organisation. The role of top-level management is to provide maintenance and effective functioning of the whole organisation. Organised crime leaders usually are not involved in any kind of activities that are illegal, except tax evasion.

Structural characteristics, along with the other features such as the number of people involved, formal structure of rules, specific aims, etc., make it possible to consider organised crime group a special kind of organisation. The activities of organised crime groups have international character. Globalisation of organised crime became the central concern all over the world in the last few years. It is not any more domestic problem of several countries such as Italy, the United States, Columbia, Japan or Russia. Possessing a direct threat to national and international security and stability transnational crime challenges the whole world community.

Premises for including local organised crime groups into world-wide criminal cooperation appeared in Estonia as well as in other newly independent states with the collapse of totalitarian system. The formation of new links between the new and already existing criminal groups could enhance understanding of the phenomenon that is multinational crime. This would, in turn, help to learn the mechanisms of functioning of transnational crime and, consequently, to work out the more effective measures to combat organised crime.

Conventional wisdom is that existing criminal organisations would grow or merge to international corporations. It is possible, for example, to infer from existing publications that criminal groups in Estonia are mainly the subdivisions of Russian Mafia. Undoubtedly, organised crime groups of these two countries have strong relations. For fifty years Estonia was a part of big soviet empire. The same criminal law was ruling on the whole Soviet Union, that included Estonia also. Recent changes that led to the collapse of soviet socialist system have had similar influence on the organised crime formation in all parts of the region. These factors explain strong links between organised crime groups in Estonia with Russian Mafia. To check

the hypothesised statement about Estonian criminal organisations' dependence on Russian Mafia, author has asked law enforcement officials concerning links that Estonian organised crime groups have with criminal organisations from the different parts of the worlds. By evaluation of experts Estonian organised crime groups are independent local organisations. Nobody told the precise number of criminal groups in Estonia. According to some evaluations, there are up to ten different groups functioning in Estonia. Although the names of groups are often associated with some nations or geographical places, they include individuals of different ethnic backgrounds. These groups neither are melting into one Estonian criminal organisation, nor became the parts of existing criminal groups from the other parts of the world. The relations with organised crime groups from Russia, as well as from the other countries, are rather business co-operation between "partners". Some of these links are also of personal nature. In other words, local organised crime groups could not be treated as Estonian division of Russian Mafia.

The other example of transnational crime discussed in term of globalisation of existing organisations is the idea that Eastern European organised crime would have influence on the United States and the Western Europe. There are no sufficient data available to the author that would support or reject the hypothesis about Eastern Europe organised crime threat to the Western countries. What is possible to argue is that Estonian organised crime takes advantage of geographic position of Estonia between East and West and availability of sea ports. Estonia became a transshipment point for illegal goods moving from the West to the East as well as on the opposite direction.

Russian and other Eastern European countries' organised crime would have influence on the Western countries in the same extend in which organised crime from the West would influence this part of the world. This influence would be due to availability of new markets, establishing new links rather than to expansion of existing criminal groups to the new countries.

This paper challenges not the idea about transnational character of organised crime but the suggestions about globalisation of criminal organisations. While there is no doubt that the phenomenon already is and would become more and more international, it is unlikely that a relatively small number of global organisations would remain. The organised crime in the world perspective could be compared with Internet, a system of linked

computer networks that is world-wide in scope. Similarly to the Internet, transnational organised crime networking is a way of connecting existing group that greatly extends the reach of each participating system. This synergistic quality is often pointed when characterising global organised crime. The Internet, in its first incarnation as the ARPAnet, was designed to serve military institutions. The main requirement to the network was that *the system should function even the most of its components are destroyed*. There is no Internet owner, no Internet “heart” - central computer. The power of the system is in its flexibility and wide range. Similarly to the Internet, the international organised crime networking is based on this principle also. The arrest of several members of organised crime, even its top-level management usually does not lead to the destruction of the whole group. No parts of criminal organisations are vitally important. Really important are fluid network links.

The assumption that in world perspective organised crime would be rather extensive network of small-scale organisations than global organisation, does not contradict with organisational treats of particular criminal organisation described in the beginning of this chapter. Strictly subordinated organised crime groups that are small in size are better manageable and act more effectively. Criminal organisations are balancing between openness and secrecy. The maintenance of hierarchic subordination within large organisation requires formal bureaucratic apparatus that would make group visible and more vulnerable. The same time organised criminal groups continuously compete with each other. In this rivalry the small groups would not survive. As a result of this process, particular organised crime group would reach certain size, that would be the most effective for its functioning. This size is not categorical for all primary groups and depends on country in which group is functioning, group’s activities, and other factors.

It is essential to analyse the nature and structure of criminal organisation on the level of one country as well as in the world perspective adequately. The valid evaluation would provide the better prospects for action against criminal organisations.

3. Measures Including Legislation to Combat Organised Crime

The measures to combat organised crime should take into account the structure of this kind of enterprises on each level. The measures should be addressed against individuals engaged in illegal business, against primary

groups and also against big transnational alliances. These measures should be different according to different character of activities on each level.

On the level of individual the most effective measure is well developed and appropriate criminal law. Not only the criminal offence should be punished by law but also the participation in criminal alliance. It would also make it possible to impose a penalty on leaders of criminal groups, who usually does not commit any crime.

On the level of primary group effective measures are those that would allow to make known the members and size of the group, to expose activities of this group.

The main effort against organised crime should be done of international level. On this point it would be useful to come back to the metaphor of Internet again. Transnational organised crime networking, similarly to the Internet, is functioning on the principle of easy and fast superseding of removed or destroyed components. Transnational crime, like Internet, became the phenomenon that could not be extinguished completely. However, the threat posted by organised crime should not be dramatised. In its fight against transnational crime international community have great advantage: there is no demand to secrecy, while organised crime needs additional effort to remain covert. The world community should understand that global dimension of organised crime requires common law enforcement efforts to combat organised crime.

The structure of international co-operation to combat organised crime should be similar to the structure of relations between organised crime groups. No global organisation for combating transnational crime is needed. The main attention should be paid to the links between counties. In legislation it should express in bilateral and multilateral agreements between law enforcement agencies from different region. The borders between countries that actually do not exist for organised crime, should not become obstacles for law enforcement.

Corruption needs special attention. It plays significant role for maintenance of organised crime. When talking about organised crime, the corruption theme is almost unavoidable. Corruption is especial problem in the states where new economical growth is accompanied by the absence of legal norms. Officials could be easily tempted by large corruptive offers in order to give legal permission for illegal activities or to neutralise the law enforcement that might act against them. Effective measures against corruption would weaken if not destroy organised crime.

Finally, the economical motivation of organised crime should be taken into account. As far as organised crime could be considered a form of economic commerce by illegal means, financial measures would have significant impact on combating organised crime.

4. Comparative Evaluation of Various Anti-Organised Crime Measures

In discussion guide for the Ninth United Nations congress on the prevention of crime and treatment of offenders is stated that, diverse measures have been adopted to fight against organised crime, but they have not had the desired impact. Organised crime has demonstrated a remarkable flexibility, adapting to, outwitting and circumventing prevention, enforcement and suppression methods. It will continue to do so unless new and better coordinated measures are developed, both nationally and internationally.³

As it was already mentioned in the previous chapter, the relevant legislation on the level of one country is important for combating organised crime. First significant step towards combating organised crime in Estonia was done by including paragraph on organised crime into criminal code. The appearance of this paragraph provided not only the legal tool for law enforcement agencies to fight organised crime groups. The very existence of organised crime in Estonia was recognised formally by this paragraph. The paragraph presumes legal punishment for organising, leading as well as for membership in criminal organisation. There is the other point of this paragraph that, in opinion of experts, would considerably help to bring to light criminal groups. This point state that the members of criminal group, who would agree to co-operate with police, would be released from legal punishment.

Experts have mentioned also the necessity of using new technologies in watching organised crime groups, usefulness of wire tapping as well as need to introduce witness protection schemes in Estonia. From the point of view of Estonian experts these measures are of big importance. However, by evaluation of UN experts, the measures that include preventive detention, criminal conspiracy and association provisions, long-term imprisonment, witness protection and immunity of prosecutions have no impact on top-level management of organised crime. Leaders, even being imprisoned, continue to run illegal operations.⁴

In such a manner the new paragraph would not probably have critical effect on combating organised crime. However, it is important in other sense.

The appearance of organised crime notion in Estonian law provides legal basis for the subsequent development of legislation including ratification of existing international legal acts on organised crime.

The period of transition, that Estonia is experiencing now, is characterised by disproportionate development of institutions within country. There is almost no cooperation between border guards, custom and police. Lack of cooperation within country constitutes a common problem for all Eastern European Countries. In addition to seclusion of law enforcement institutions, these countries have a little knowledge about crime operations, inconsistent legislation, little experience in combating organised crime, no modern technology available to law enforcement.⁵ It results in considerable growth in crime, and particularly in organised crime. In this situation a possible reaction of Western countries would be to prevent themselves by closing the borders. However, the delay of integration of Eastern European states into the European and world community can have the opposite effect. Isolation would create the circumstances for the distribution of organised crime in the successor states. More effective would be the effort of international community to support law enforcement in Eastern Europe and provide necessary help for integration of newly independent states into international cooperation. This effort will

involve a considerable human resource investment in order to provide or refine cross-sectorial professional training of high calibre, using the normative yardstick of international standards. The upgrading of specialised technical skills is necessary, together with development of an effective individual and collective operational capacity at the field level... It also requires familiarity with the provisions of existing international conventions, standards and norms, agreements and other arrangements.... These are all designed to enable better collaborative transnational action.⁶

While organised crime is becoming more and more "border-free" in nature, law enforcement should not be locked within national legal frameworks. Well-developed international cooperation network between law enforcement will provide flexible tool to combat organised crime. The way to create this extensive network is through the more vigorous pursuit of bilateral and multilateral cooperation. Estonian experts in their interviews emphasised usefulness of the agreements between countries. The example of trafficking in stolen cars shows the necessity of international cooperation.

Stolen cars are among the most popular organised crime activities.

Luxurious automobiles are stolen mostly in Germany. These cars are then driven to Estonia, registered here and eventually sold in Russia. Several times German police force have cleared the crime, found the car and even provided evidences that this particular car was stolen. However, if the car was already registered in Estonia, it was impossible to confiscate the car and return it to owner due to lack of agreement between Estonia and Germany.

Bilateral cooperation could be one of the initial efforts to create extensive cooperation network between countries. Although this kind of cooperation can have very positive contribution to combating organised crime, it also has some limitations. The gaps in bilateral agreements' network are used by criminal organisations to escape prosecution in one country by finding refuge in another. Bilateral cooperation on some levels produces inefficiencies, lack of cooperation and overlapping.⁷

One way to overcome the limitations of bilateral agreements is through further development of multilateral cooperation. The ratification of multilateral conventions will introduce international standards to the countries where legal norms are weak or absent in a period of property redistribution.

Ratification of international conventions is in special need in Estonia. Particularly important is ratification of the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. Estonian experts evaluate economical measures the most effective for combating organised crime. Integration of countries in transition into European and International community will demand ratification of existing agreements. This, in turn, would assist to include new legal norms into national legislation. Without law that enable combat organised crime economically, no anti-organised crime measures would have significant effect.

5. Proposed Measures Including New Legislation to Combat Organised Crime

Taking into account the analysis presented above, the following measures could be recommended to combat organised crime on both, national and international levels.

On the national level it is important

- to revise, change and update existing laws according to the international norms and standards. Changes in national legislation would create legal basis for ratification of international conventions;
- to harm organised crime economically. The new article or separate law

that would make possibly confiscation of property of the organised crime groups would be appropriate tool for economical measures;

- to prevent successor states from becoming money laundering centres. Money laundering should be prosecuted by law(s);

- to use more effective methods of police investigation including modern technologies and electronic equipment in police work. The employment of these methods should be legalised by law;

- to ratify various European conventions on organised crime;

On the international level:

- Important are new initiatives on development of bilateral as well as multilateral cooperation.

- The anti-organised crime measures in world perspective should be well coordinated and interdependent.

- To avoid gaps in international law enforcement networking, the integration of successor states into international community should be supported and assisted.

- Establishing of international training centres as well as organisation of international conferences can provide appropriate basis for increasing the law enforcement agencies' level of knowledge about crime operations, to share experiences in criminal investigations.

- Creation of international informational network for law enforcement will increase awareness about anti-organised crime actions and strengthen the effect of common effort.

- Systematic research on structure, extend, links and activities of organised crime can also help to elaborate more effective counter actions.

6. Conclusions

Although the concern about organised crime has grown considerably in recent years, this issue has received insufficient attention in Estonia. This paper was intend to discuss the issues of organised crime in the world perspective. In this paper Estonia was treated as a part of the transnational organisational crime. The observations and conclusions done on the basis of several interviews with law enforcement officials could be treated rather as preliminary hypotheses. They could become a starting point for the additional investigation.

For defining organised crime groups important are temporal features, the presence of long-term profit goal as well as structural characteristics.

Organised crime uses violence and corruption to neutralise efforts of

law enforcement. The issues of corruption, money laundering and illegal economy, that are closely connected to organised crime, were not explored in the presented paper.

The main hypothesis proposed by author is that on international level the structure of organised crime is world-wide flexible networking, while primary organised crime groups are organisations with strict hierarchical structure.

The measures and strategies of anti-organised crime actions should take into consideration the structure of transnational crime. These measures should have a goal to create mobile, flexible and well-coordinated international co-operation network of law enforcement.

The countries where the new economical growth is accompanied by weak legal norms, should not be isolated and excluded from international cooperation. The exclusion of these countries would create premises for organised crime flourishing in this part of the world.

Notes

1. The degrees indicate seriousness of crime. The first degree crime is an offence, for which criminal code conjectures over eight years of imprisonment or general punishment. The second degree crime is that punished by criminal code by up to eight years of imprisonment.
2. See also: Ernesto U. Savona, *Organised Crime Across the Borders*. HEUNI Papers No.6, Helsinki 1995, pp.5-6.
3. Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Discussion Guide. 27 July 1993, p.10
4. *Ibid.* p.10
5. David L. Carter. *A Forecast of Growth in Organised Crime in Europe: New Challenges For Law Enforcement*. *Police Studies* Vol.13, No.2, 1995, p.67
6. Ninth United Nations Congress, p.9
7. Ernesto U. Savona, p.13