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TRANSNATIONAL ORGANIZED CRIME

Транснациональная организованная преступность

Introduction

Organized crime is perhaps the most dynamic and widespread form of crime today with primarily social and consequently criminal dimensions. The organized crime is a social pathology that has grown over time and challenges the order of the states, the principles and the laws of its economy, in addition to the fact that it displays the possibility of easy profit to everyone. The enemy is no longer out of society nor is it found only in certain "dangerous classes", it is ubiquitous (Lambropoulou, 2001), threatening directly and affecting national security and stability, as it affects national economies and societies of states, challenges political and legislative power and in total their sovereignty.

The prevention and suppression of this phenomenon have been, in recent years two of the key priorities of anti-crime policy, internationally. The modern national legal systems deal with the phenomenon of organized crime as one of the major risks of erosion of political institutions, a source pf chaos and disorganization of economic structures and their social cohesion Moreover, the cross-border nature of organized crime in recent decades has forced law enforcement agencies to deal more effectively with its effects (Christopoulos, 2014).

Defining Transnational Organized Crime

Until now there is no commonly accepted definition of transnational, otherwise cross-border organized crime. On the 9th UN Meeting on Crime Prevention and Treatment of Offenders, organized crime was identified as a form of economic trafficking through means including the threat and use of physical violence, corruption, extortion, and other methods for the use of illicit goods and services (Mylonaki, 2002).

From the number of definitions that have been formulated from time to time by the relevant researchers but also within the framework of important international institutions (Vlassis, 2002), some common elements emerge that constitute the concept of organized crime, on which there is a wide convergence of views. These elements are: the organization and hierarchical structure of a group of three or more people, the purpose of this group to commit serious crimes, the duration of the criminal group in time, the material gain as a fundamental goal.

A definition of transnational organized crime with legal force does not derive from the International Palermo Convention (2000), as it is difficult for states to reach a consensus on this level, but the Convention clarifies key terms. There are the definitions of "organized crime group "," serious crime "," structured group ", however there is still criticism that are particularly broad and exaggerated terms (Hauck, Peterke, 2010) . As pointed out in Recommendation (2001) 11 of Council of Europe in the absence of an existing cross-border technicus termini of the organized crime, otherwise known as the TOC (transnational organized crime), the Council of Europe has adopted the broad term of organized crime as this is standardized in the Article 3 of the United Nations Convention against Transnational Crime (Convention Palermo).

In the relevant Convention it is approached as the crime committed in more than one states and a part of the performance takes place in another state or is committed in one state but involved with a criminal group committing criminal acts in another State or, finally, committed in one state but substantially affects another state (CoE, White Paper, 2015). Essentially the convention helps in co-operation in criminal matters, in building confidence and in the exchange of information.

Based on the above, we define organized crime as an illegal activity carried out by groups of individuals who are organized in a specific hierarchical framework with distinct roles and distribution of responsibilities among their members, are active for an indefinite period of time, use violence or threat of use of violence as the main means of achieving their individual goals, have as main purpose of their action the achievement of significant material benefit for their members and commit illegal acts of great gravity in order to obtain this material benefit.

Regardless of the discrepancies observed between the various definitions of organized crime, the key points that define it are: a) the existence of an organized group of individuals, b) the hierarchy and the distribution of responsibilities among its members as a way of organizational structure and structure, c the duration of this group in time, d) the use of force or the threat of use of force to achieve its objectives, e) the acquisition of significant material benefit as its main purpose, its purpose.

The individual differences between the definitions of organized crime are reasonable, as the diversity of each social phenomenon, such as organized crime, makes it virtually impossible to formulate a definition that can include every possible manifestation and occurrence of the outside world. In the same context, the search for the "perfect" or most representative definition of organized crime is questionable. In any case, the crucial point in defining a concept of a phenomenon such as organized crime, is the citation and adequate description of its main characteristics, so that on the one hand the basic elements that make it up are understood and on the other hand it is clearly distinguished from other phenomena manifested in similar ways [5].

However, the slow realization of transnational-cross-border organized crime's dimensions and the lack of common interests also partly explain the reluctance of states to establish a legally binding multilateral framework for the suppression of organized crime. The term transnational crime / offense is indeed an umbrella term, which may be perceived as deviant behavior at the level of crime, which from its nature necessarily implies crossing state borders and violating the laws of many states. The criminalization of these crimes ultimately remains within national jurisdictions and not supranational authorities.

The escalation of the organized crime is a difficult issue that depends on the definition that will be given and will be used. The term supranational organized crime is used collectively to express smuggling, trafficking, arms trafficking, drug trafficking and money laundering (Guymon, 2000).

Organized crime is the main arm of the organizational crime involving criminal business groups aiming at financial gain through illegality. It is about a structured business system that constantly supplies consumers with goods and services prohibited according to criminal law. The criminal act in question is facilitated by the ready and uninterrupted available market for promotion of gambling games, drugs, etc (Dimopoulos, 2008).

Differences between National and Transnational Crime in relation to Cross-border crime

The term transnational crime refers to all those criminal acts that extend beyond the borders of a country violating more than one legal order, in the sense that the performance, the prevention and the direct or indirect consequences of these crimes concern more than one state.

The first use of the term supranational crime took place in Geneva in 1975, quite a bit earlier than the outbreak in the late 1980s and beyond, at the Fifth United Nations Conference on Crime Prevention and the Treatment of Detainees, where it was defined as the criminal activity that overtakes national borders and includes crimes committed under alcoholism and drug use, bribery and the crimes the so-called "white collar" ones, the illegal trade in works of art and culture goods, illegal immigration and hostilities.

Cross-border crime as a concept places the intermediate border states as the central point for determining criminal behavior, presupposing their crossing - overcoming - passage as a necessary element as this behavior goes beyond its area of the administrative responsibility of the central power of a state. In the concept of cross-border crime they are included not only the crimes that the perpetrators intend to dismantle border lines (e.g. smuggling) and to the correlation of criminal devalue of the act with the intended transit but also the crimes that happen to be carried out on the border demarcation line.

According to FRONTEX, cross-border crime is "...any a serious form of cross-border crime committed in external borders, or along them or related to them..." (Regulation (EU) 2016/1624).

Basic criterion for the characterizing an illegal act as a cross-border crime is the view of the same act in the light of the existence of borders, meaning if the same act would be considered a crime if the border between the states did not exist, with the more typical examples being the illegal immigration, the smuggling and the customs offenses. On the contrary, cross-border crimes should not be considered the forms of criminal conduct the commission of which is favored by the existence of borders, either because they make it difficult or impossible to persecution the perpetrators due to soil morphology or lack of transnational cooperation agreements, or because of the differences in quality of life observed between the two sides of the border, with the most typical example being crimes against it property (theft - burglary, theft of vehicles, etc.): these criminal behaviors are involved in the broader category of transnational crime.

Transnational crime is a much broader concept than that of cross-border crime that includes and covers the cases of the latter while being used more frequently in international science bibliography, resulting in the use of the term cross-border crime as one different category of criminal activity to become redundant and create further interpretive problems and difficulties in exercising commonalities in anti-crime policies and International Cooperation, showing interest only from a scientific point of view in terms of understanding and studying the mode of manifestation of a particular social phenomenon.

Due to American influence, the EU Member States decided to use the term "Transnational Organized Crime" (transnational or supranational Organized Crime) instead of the terms: drug trafficking, money laundering and trafficking in human beings, however many Member States have not adopted the above line, but define these activities as ‘Serious Crimes

"(Serious Crime), as it cannot be proven in any case directly the organizational infrastructure of any criminal behavior (Sheptycki, 2011)

The character of International Crimes is clearly supranational; however these are separated from the concept of supranational as International Crimes do not get treated as unlawful conduct only by certain domestic laws but also by the whole international community which disapproves of them. It disapproves because they are considered as violations of generally accepted rules of international law that protect universal values of humanity, such as war crimes, offshore piracy, the slave trade, etc., without those illegal behaviors must to be part of a wider organized criminal activity.

According to INTERPOL, modern Transnational Organized Crime is in a phase of transformation, with traditional family-type structures with tight inheritance hierarchy to gradually give way to new more flexible and looser networks that are constantly changing the way they operate, adapting in the wake of the period based on the demand for illegal goods, the criminal opportunities and profit motives, with new trading technologies and communications to favor the greater spread of the phenomenon, making it difficult for the law enforcement agencies to combat it (INTERPOL, 2017)

Organized crime has changed dramatically in the last decade of the 20th century in a modern social model, taking advantage of a crowd factors (economic, political, social, technological) that contributed essentially in its development: the facilitation of international transport and the opening up borders, the predominance of capitalism and the liberalization of markets with gigantism of trade, combined with the development of international communications, the modernization of interbank transactions and its use as a money transfer platform, have led to the creation and development of a global criminal transnational dynamics of Organized Crime.

At the same time, the Dark Web is the newest platform where the Transnational Organized Crime Action Plan takes place , with the technology to be operating as a catalyst in new criminal trends, facilitating cross-border crime and money laundering, providing a safe anonymity to the perpetrators and a multitude of difficulties to the prosecuting authorities, with complete ambiguity of jurisdiction, total conflict of powers of prosecution by prosecutors principles and a complete lack of legislative frameworks governing its operation (Shillito, 2019).

The Nature of Organized Crime – Main Approaches

There are several types of approaches that try to interpret the nature of the organized crime. The main of these approaches are based mainly on the type and form of criminal activity, in the relationship between the members of the criminal group and in its organization, but also in the maximization of its power, through its illegal governance (Von Lampe, 2016).

The first approach is based primarily on the type and form of the criminal activity, i.e. the type and form of it that renders the crime organized. The criminal action of the accomplices, in a criminal group, must be based on an organized and well-structured plan, even in the case of criminal activity that takes place in a specific field of activity, a project which leads to the commission of crimes for a long time, repeatedly, in such a way as to cause severe form of damages. The target of the criminal group is the illegal financial or other form of profit, while for the achievement of the desired result the criminal groups resort in the use of any form of violence or other unjust means, such as bribery, fraud, etc. (Von Lampe, 2016).

The second approach regarding the nature of the organized crime focuses on the relationship that is created between the members of the criminal group, the organization, its structure and in the hierarchy on the basis of which the criminal organization is structured and not on the type and nature of the crime it chooses in order to obtain illicit benefits. This approach focuses on how the members of the criminal group interact with each other, in the distribution of roles and duties of its members in order for it to function properly rational, minimizing the potential risks of the extinction of the criminal group by the law enforcement authorities, in building relationships of trust and respect between the members of the organization, through the imposition of severe penalties and punishments for the possible violators of its unwritten rules of operation (Cusson, 2009).

Finally, the third and last approach of the organized crime does not refer to the different types of criminal activities or the way its members are organized. Special emphasis is given to the concentration of as much power and authority as possible for the criminal group, that is, factors that will make a decisive contribution in consolidating and strengthening its position, making it in this way able to comfortably control and regulate its activities, exploiting any social, political and economic system weaknesses, reaching a point to achieve its goals to use means such as bribery, extortion and exploiting legal loopholes, within an already corrupt system, ensuring the impunity of its criminal activities (Cusson, 2009).

The main features of the organized crime

The structural elements of criminal organizations are divided into three types: first, in mafia-type hierarchical structure with levels of organization where in the organizational pyramid is located the leader (s) supported by a network of "experts" who mandate the subordinates. At the medium level, individuals show a relative autonomous action and perform specific criminal plans.

The second structural element is the horizontal structure where the central power is missing or it seems to have loose ties. The third structural element block is the loose composition - an association of 3-4 people with alternating leaders according to the needs of the criminal plans. As Kleemans (2007) states "Mafia-type criminal organizations, in a sense should be seen as criminal networks instead of pyramidal structures, as they are involved in various illegal activities such as drug trafficking, trafficking of human beings, sexual exploitation, trafficking of illegal immigrants, arms trafficking and stealing vehicles".

Organized crime changed methods and structure mainly during the 1960s because of the substantial contribution of the drug trade. Its modus operandi until then included mainly violence and threats. From that point on the use of corruption started climbing all levels of leadership including public administration, justice, politics, the banking system as well as the police having the chance to access easy riches. Its spread pervades the space of the underworld as well as the higher social strata and this is the main reason that every effort and measure is ineffective at combating it (Sykiotou, 2008).

Transnational crime is part and a dominant element of the so-called organized crime (Chloupi, 2005). In the event that two or more countries are involved in the commission of a crime them this one is a transnational crime, when the countries are neighboring, it is a cross-border crime. Cross-border is the crime committed along the borders of states and its implementation involves two or more countries. Many crimes, however, take place not only along the border but cross the border and enter the territory of another country, such as human trafficking or in the form of illegal immigration or trafficking of human beings, or inter alia crimes (Sykiotou, 2008).

The evolution of the TOC

For more than a century, criminologists, researchers, international agencies and state governments are trying to decode the concept of organized crime, having as an ultimate goal the adoption of a widely accepted definition of organized crime. In the middle of the 20th century, at the heart of the debate of the organized crime the Italian and Sicilian mafia was found, also known as the "Cosa Nostra» families of criminals or known as the «mobsters". These groups based their strong family blood ties between the members, on strict discipline, on mutual respect and on confidentiality in the criminal group, in continuing to recruiting criminals, who were willing to take any kind of illegal action in order to achieve the goals of the "mafia family "and to strengthen its action (Cusson, 2009).

Nevertheless, this approach was differentiated in the following decades in order to be included and integrated into the concept of organized crime and other forms of criminal actions (Roth, 2010). Until the 1980s, the continuous and compact structure of criminal groups, nature and severity of the criminal acts committed, but also the growing number of members of criminal groups, were the most important elements, which brought to light the existence and prevalence of organized crime (Roth, 2010).

From the end of the 1980s the traditional organized crime began to upgrade its know-how, due to the use of the new technologies and international action. Traditionally, organized crime is seen more as a national problem of law and order than as a threat against society, political institutions and the economy.

In the beginning of the 1990s organized crime groups began to appear, expand and become active beyond the territory of a state, to a cross-border, European or even global level. The result was that the transnational organized crime to become a particularly important problem, one of the most serious threats to states and international organizations, globally (Von Lampe, 2011).

Although dealing with it within borders as a crime of law and order is a common practice of states, there is minimal success in tackling the cross-border crime in the face of scarcity of an international coordinating body responsible for the study and control of the phenomenon but also in combination with a view to the heterogeneity of national jurisdictions. The criminal action has become an issue forcing governments and the judiciary to review their preventive and repressive strategies. These intensifying actions bring changes and modifications in the structure and operation of criminal organizations (Chloupi, 2005).

According to the Council of Europe report for 2005, status and policy structure of the state have little effect on organized crime. Although states with strong democracy, application of the principles of legality, transparency and justice are supposingly able to stop the flourishing and spread of organized crime, again the margins for its development as the demand for illegal goods and services remains as old as the world . The only difference is that in such environments the organized crime finds covert ways of acting (Sykiotou, 2008).

The rapid and growing expansion of the transnational organized crime, but also the observed weakness of state bodies and law enforcement authorities to deal effectively with problem, has made transnational organized crime as one of the most significant threats to public and state security, leading states and international organizations to re-evaluate the problem and address it more as an issue of security, rather than as a criminal act (Carrapico, 2011).

Regarding the factors that played a key role in the rapid, global spread of the transnational organized crime, it is generally accepted that, various social, political, economic and technological factors such as global social, political and economic inequality between states around the world, the striking technological development and innovation, both regarding the means and the communication between citizens, widespread global corruption, international trade, the creation of the single market within the walls of the European Union, the growing human transnational movement, but also the dissolution of the Soviet Union are some of the determinants of the spread of the phenomenon around the world (Wagley, 2006).

A key feature of the state is its sovereign control over its national territory, which is in practice violated by the inability to control organizations trafficking in goods and services. This is how the "state monopoly" becomes weak in the imposition of legal force on its citizens by organized crime groups crime, which is a small army with thousands of armed members. The transnational and cross-border crime by nature violates the national borders both the real ones and as well as the symbolic dimension of national sovereignty. The idea of the threat of national sovereignty is reminiscent of a military threat from an alien state and the organized crime avoids direct conflict with the state apparatus (Chloupi, 2005).

As typically pointed out, organized crime is not just a form of crime but the almost total challenge to the rules of social coexistence that the states have secured. In this sense, organized crime is a threat to democracy and social cohesion. In cases where organized is uncontrollable, it can become a danger to the social structure itself but also to the state which under the pressure of the vast interests of organized crime can get disorganized, alienated and final become part of it.

In many cases, in Latin American countries and in the Balkans, organized crime groups with their criminal activities (mainly drug and human trafficking) finance cross-border warfare and civil conflicts.

Organized crime across borders is an "attack" on the three pillars of the national sovereignty: In border control, in the monopoly of the use of force to enforce the law and to the power to tax economic activities within borders. The transnationals criminal organizations are presented as an alternative to legitimate state violence thus undermining stability and state control (Guymon, 2000).

Geographical Distribution and spread factors of the Transnational Organized Crime

It is generally accepted that transnational organized crime and its geographical distribution and in various regions of the world is shaped by various parameters and factors.

One of the most decisive factors is the existence of legal flows of persons and goods. More specifically the transnational organized crime and criminal groups active in this, they reportedly prefer to achieve their goals through the legal and standard trade routes and crossings for movement, both of tangible goods and of persons, in global level. The legal trade routes for movement of people and goods around the world are widely used by transnational organized criminal groups, such as drug trafficking networks of substances, of human beings, of migrants, of weapons, etc., In this way criminal groups pursued the risk reduction and the minimization of the chances of the detection of their activities by law enforcement agencies (Russo, 2010).

The criminal organizations, also, choose routes where there are non-existent or insufficient controls. The transnational organized crime spreads, primarily and more comfortably in States in which the enforcement authorities and law are not able to deal effectively and to eliminate the action of criminal groups, either because of high rates of corruption that can be observed or due to the weakness of the authorities themselves to successfully cope with the demands arising from the ever-expanding action of transnational organized criminal groups. Such countries are used vastly by criminal groups, also in exceptional cases they are useful as safe shelters of their members, even as storage areas and storage of goods arising from their criminal activity (Williams & Godson, 2002).

Looking back at the most powerful criminal gangs and their history, it is observed that, in most cases, their development and empowerment took place at times when the state where they had their base faced a deep crisis (usually at the same time political, social and economic) or was characterized by severe structural weaknesses and dysfunctions in the exercise of its power and responsibilities (Vidali, 2014). A recent example is the rapid growth of organized crime in Russia and the countries of Eastern Europe after the collapse of the USSR and the consequent creation of many new states with weak and unstable structures but also the deep crisis at all levels.

Furthermore, a typical example of causal relationship between the crisis facing a state and its weak central structures in the development of organized crime, are the cases of Latin American countries, such as Colombia and Mexico, within which organized crime is emerging powerfully 9, having at the same time acquired the ability to act transnationally in world level (Katsios, 1998).

Moreover, an important factor is the possible social and geographical proximity between states. In more detail, except the geographical proximity that may exist between two states, this approach regarding transnational organized crime focuses mainly on similar policies, social, linguistic and cultural characteristics and features that can be observed between two states, even if they do not border or are not geographically close to each other. It is a phenomenon which can be observed in countries, former colonies of other states (Zaitch, 2002).

The last main factor is the existence of asymmetries that favor criminality. According to this approach, transnational organized crime shapes and expands its action at a global level, influenced by economic, social and political inequalities and imbalances that are observed between states as well as from the existence of different laws, state structures and principles of law enforcement, between different states (Passas, 2002).

TOC and the international system

From the point of view of international politics and the transnational dimension of the organized crime, the crisis facing a state, the weakening of central structures caused by it and the development in the territory of the organized crime with transnational characteristics, are interrelated elements. In more, the developments that are taking place and the behavior that state actors adopt in the competitive field of international politics, such as warfare in general or the incursion of large powers into other weaker states, often lead to the emergence of crises and the weakening of power structures of certain states, especially the less powerful ones.

These states are now entering in a state of inability to exercise adequate controls within their territory and their borders, which is of dual importance for the development of the transnational organized crime: a) on the one hand allows and facilitates the "exportation" of organized crime from the state in crisis to the territory of other states and (b) on the other hand it makes possible the emergence of organized criminal activities which are really based in other states to take place in the territory of a state in crisis, exceeding the weakened borders restrictions. Overall, the crisis that some states are facing due to the developments in the field of international relations and international politics consists a critical factor promoting the emergence of organized crime with transnational characteristics.

In particular, transnational organized crime groups do not arise and do not develop in the international arena in a vacuum. The behavior of states at international level is related to both the appearance and their development. As developments in the field of transnational relations lead to weakening the sovereignty of some states14, as well as some states imply, in any way, the sovereignty of other states within the framework of transnational stakeholder competition, the more it is created suitable ground for the emergence and spread of organized crime groups with transnational characteristics, since a precondition for the development of transnational phenomena in general is the weakening of the ability of states to exercise effective controls. In addition, the use by some States of such groups in order to strengthen or maintain the position in the international system vis-.-vis other competing states, constitutes also a key element that contributes to the extensive development of the transnational organized crime.

Organized crime, after appearing and strengthening in the context of a state the crisis and the weak central structures that it causes, now functions as a more deepening factor of the existing crisis, further weakening the already existing weak state structures.

In particular, organized crime groups, while not aimed at overthrowing the current power, seek to exploit every weakness of this established power in order to survive and develop their action. In this context, they move in two main axes: a) they operate, using the profits they make from the illegalities to corrupt state actors in order for the latter to not be an obstacle to their action and also to even contribute to the firsts promotion, b) penetrate the official structures of the economy in order to "legitimize" their illicit profits and to strengthen their position and intervention in the system within which they operate.

So, it pushes the state in which it operates in an even deeper crisis, contributing crucially in shaping an environment of openness, corruption and paraeconomy. It is clear that this situation significantly complicates the smooth functioning of a state, as well as its ability to fully manifest and effectively dominate in its territory.

In the case of transnational organized crime, there is the same effect, it penetrates and operates easily especially in weak states which are in crisis. It is, in fact, a much more powerful factor in comparison with the domestic organized crime, as well as due to its transnational connections. Because of the last with its actions can yield much greater material benefits but also uses methods that make it much more difficult to suppress. Therefore, appearing in states with weak central structures provoke them to get into deeper crisis at all levels. At the same time, exploiting the insufficient control of these states at their borders, they acquire the possibility to extend the action in third countries. In this way, transnational organized crime has serious consequences in the field of international politics.

In particular: a) on the one hand, their action within the already weakened states leads them to even worse crisis regime, (b) on the other hand they use these states as the ideal base or passage for the further expansion of their action in international level. Overall, the transnational organized crime in its action poses, finally, issues of international security and stability.

More specifically, from the point of view of international politics, the above qualities and manifestations of organized crime create insecurity in the peripheral subsystems where the already weak state belongs. The result is that these states become, often, unreliable in the international arena, disrupt transnational relations and can even lead to international conflicts or interventions (Zaitch, 2002).

In particular, transnational criminal activities undermine the sovereignty of a plethora of state entities, cause disruptive effects on their social background; they decisively change the traditional meaning of borders and increase insecurity between states (Mats Serano, 2002). In other words, they clearly become factors of redistribution of power and international instability that can even lead to transnational conflicts.

On the other hand, the uncontrolled growth and their spread create for the affected states adversely corresponding needs to limit them. In this way, the transnational organized crime affects the functioning of the most important intergovernmental organizations but also the transnational cooperation in general while states to try to find and implement common methods in order to deal with it.

Structure and organization of the Organized Crime Groups - Key Approaches

The structure and organization of the criminal groups of the organized crime and the way the decisions are made, roles are assigned and duties within their walls, has been and still remains a subject of study and research by many criminologists, researchers, international organizations and law enforcement officials throughout world (Abadinsky, 2013).

Some of the studies contacted have described and interpreted the structure and the organization of criminal groups, based on the so-called «corporate model "of organization. According to this approach, organized crime groups have hierarchical and vertical structure, which draws elements and features from the structure and organization of commercial companies. To be more exact, the relationships of the members of the criminal group are vertically structured, having a hierarchical, pyramidal structure.

The advantage of this approach and of this type of organization of criminal groups is the best control of the members of the criminal organization from the highest hierarchical executives. Also the better management is possible both of its means of carrying out its criminal activities and of the resources used for the same purpose.

At the same time, another important advantage of the vertical, pyramidal organization of an organized criminal group is the easiest way to exploit "markets" since it does not require special complexity and specialized knowledge from the lowest members of the hierarchy, as they receive specific orders from the highest hierarchical members, which hold the first word in operation and decision - making for the criminal group.

At the same time, this kind of organization offers better exploitation of the so-called "illegal monopolies”, such as drug trafficking, blackmail shops and businesses and the illegal exploitation of the lucky o games (gambling) etc. (Abadinsky, 2013).

On the other hand, other researchers and criminologists argue that organized crime groups now have a different, decentralized and more flexible structure and organization form. In other words, they use the so-called "network model" of organization.

According to this approach, the relationships that develop and are created between the members of criminal groups are horizontally structured, more relaxed and more flexible, creating circles of relationships between their members. In this way, the organized criminal network consists of smaller criminal groups, which possess a freedom of movement and relative independence of their actions.

Significant advantage of the "network model", of the horizontal structure and the organization of criminal groups, is their flexibility, a factor that plays a decisive role in adapting the teams to the prevailing conditions. In addition, this form of organization of criminals groups provides more security to the organized members in relation to the vertical, pyramidal structure, as well as larger margins for reorganization of its members, in case of their arrest, by law enforcement authorities.

In cases of arrest of senior hierarchical members of an organized crime group, which is structured and organized vertically and pyramidal, is more likely to be dismantled by enforcement authorities law, including even all members of the criminal group, in relation with a criminal organization, which is structured on the basis of "Network model". In the second case because of the above features and traits, this type of criminal groups are involved in complex illegal "markets" and areas of activity, such as trafficking in human beings, whether sexual or otherwise forms of exploitation (Picarelli, 2009).

The "network model" of organization and structure allows criminal groups to build the relationships and bonds necessary for the survival and consolidation of criminals groups, gathering information, forming alliances as well as external relations necessary for their protection and further expansion of their scope. They even allow the penetration to the law enforcement authorities, through all possible forms of corruption.

In addition, it is worth noting that the structure and organization of criminal organizations is not always specific and stable, but can change and differentiate, depending on the prevailing conditions, the objectives of the criminal group, its requirements and its areas of activity (Abadinsky, 2013).

United Nations Convention against Transnationalism Organized Crime

The United Nations Convention against Transnational Organized Crime (UNTOC) was adopted in 2000 in Palermo, Sicily, by 121 members of the UN. and got in force in 2003. It is the most powerful tool and instrument for combating and tackling the transnational organized crime at an international level. The Convention (UNTOC) set out the basis and foundations for the adoption of a commonly accepted definition, the concept of organized crime, as well as the circumstances under which an offense committed by an organized crime group can be considered transnational in nature.

According to the Convention (UNTOC) "Organized Crime Group" means: “A structured group of three or more persons which exists for some period of time and acts together having the purpose of the commission of one or more serious crimes or offenses which are adopted in accordance with this Convention, with the ultimate aim of obtaining, directly or indirectly, financial or other material benefits " (UNODC, 2010).

According to the above definition for the transnational organized crime, key features of organized crime form are:

- the existence of a structured criminal group of three or more people, created and formed for committing criminal acts;
- the duration of the structured group, meaning that the co-existence of the criminal group must have the duration of some time;
- the joint action of the members of the criminal group with for the purpose of committing one or more serious crimes or offenses as well;
- the direct or indirect supply of financial or other material benefits from criminal activities.

In addition, under this Convention, an offense is characterized as transnational in nature and can be described such in cases in which:

- it takes place in more than one state;
- it takes place in a state, but a significant part of the preparation, planning, guidance or control takes place in another state;
- it is committed in a state, but it concerns an organized criminal group, which is involved in criminal activities and the commission of criminal offenses in more than one state;
- it is committed in a state, but has significant implications and substantial results in another country (UNODC, 2010).

Comparing Organized Crime and Legal Businesses

It is now indisputable that, organized crime is a global phenomenon, with organized crime groups active in it, having extended their action in all parts of the world, regardless of social, political, economic, cultural or religious conditions that prevail in every region (Schloenhardt, 1999).

Several theories tried to define, interpret, deconstruct and analyze organized crime as well as illegal criminal activities taking place by the members of the relevant groups, in their quest to achieve their goals. One of the main and most important approaches is that of the economic theories (Bajrektarevic, 2000).

The ultimate and most basic purpose of organized crime is the obtainment and the accumulation of as much as possible financial profits, which come as a result of illegal activities of organized crime groups. The way the economic analysis and economic theories evolve, could support the view that organized crime has the same purpose with legitimate businesses, ie the maximization of financial gains (Bajrektarevic, 2000).

At the same time, there are other similarities that can be observed between organized crime groups and legal business. Legitimate commercial enterprises seek selling as many commercial products as possible to their consumers in order to make more money benefits, element that it can also be found in organized crime groups, which provide their "clients" with illegal services, but also illegal goods, on the altar of illegal financial profit (Savona, & Zoffi, 1998).

In addition, in the effort of a further expansion and development in other markets, with larger consumer public, legitimate commercial enterprises use and invest a large part of their profits, not only for the repayment of their employees, but also in order to invest this profit in newer and more modernized equipment, technical means, but also personnel, capable of upgrading and expand the commercial activity of the company. A similar situation is also found in organized crime groups, which use part of their profits, not just to repay their criminal members, but also to invest financial capital in new, modern technological equipment, which could help gang members avoid their detection and arrest by law enforcement authorities, as well as to expand their illegal activities to new criminal markets, thus upgrading their illegal actions (Savona, & Zoffi, 1998).

Besides, it is very important the fact of the division of labor and the personalization of the roles and responsibilities of the members of both legitimate undertakings, as well as illegal organized crime groups. In one commercial enterprise, each employee works in one specific field in which he has acquired specialized knowledge, aiming for the highest efficiency. In the same way, many members of criminal groups have acquired specialized knowledge in a specific criminal activity, with the division of roles in the criminal network to play an increasingly important role in the methodical organization of criminal groups (Williams & Savona, 1996).

On the other hand, despite the important similarities, there are some fundamental differences between the activities of organized crime groups and legal commercial business. The most obvious and important difference lies in the underground, covert and illegal nature of the activities of organized crime groups, as opposed to the activities of legitimate businesses.

In addition, in the legal "markets" and in law firms engaged in lawful undertakings there are written contracts, rules, procedures and legal regimes, which must be followed and reverently observed by all participants and parties, such as businesses, consumers and employees. Unlike everything above, in the illegal "markets" and sectors of activity of criminal groups there are no such legal rules and corresponding procedures. There are no written contracts and agreements. Agreements and contracts also require obedience that must be ensured by oppressive rules, systematic recourse violence, threats, intimidation and death to achieve the purposes of organized crime groups. It is also worth note that other, less violent means, such as bribery, corruption and exploitation of legal loopholes are essential and particularly valuable media and representative elements of the way operation of organized criminal networks, in their continuous and their relentless effort to avoid and deter the cessation of their illegal activities, as well as detection law enforcement and civil protection authorities (Abadinsky, 2013).

Tackling organized crime

Organized crime is mainly dealt with in the environment in which it takes place and manifests the greatest part of his actions, that is, within the regulatory and institutional framework of a state. States operate in order to organized crime by drawing up and shaping a network of legal arrangements, police bodies and other institutional procedures which are usually of a strong repressor character. Primarily, the path followed by many states in terms of tackling organized crime involves trying to reduce the consequences of its actions when it has already been developed in to such an extent as to cause specific effects which affect the official state structures and their function.

The emphasis given by states on repression makes it in practice particularly difficult to deal effectively with organized crime, for two main reasons: a) firstly, it does not contribute to the understanding and management of the causes leading to the development and strengthening of organized crime, b) secondly, it is characterized, in particular in developed countries, by specific legal and other institutional constraints, which, however, do not effectively bind organized crime and therefore make it easier to adapt and largely bypasses repressive efforts.

Based on the data available today, this cooperation, in particular its aspects assisted by the functions and services of an important international institution (such as the EU or the UN), has managed to achieve some key blows to the detriment of transnational organized crime activities.

Nevertheless, transnational organized crime as a phenomenon remains acute and constantly evolving, developing its actions in ways that constantly bypass and pose new challenges to prosecutors and suppression mechanisms.

In other words, transnational cooperation, both bilateral and non-bilateral part of the operation of international institutions, has not yet show that it can deal effectively and in long run perspective the action and spread of transnational organized crime. This fact can be explained from the point of view of international politics, as in reality it depends on the constraints and limits that characterize the transnational cooperation and the functioning of international institutions.

In particular, transnational cooperation, while it is feasible and functional when common state interests are served, it gets limited and delimited mainly by the problem of relative profits. In particular, states do not intend with their cooperation only to obtain some absolute profits for themselves, but they focus mainly in the relative profits of the cooperation, ie how much they earn in relation to the other participating states. When some states find that some others benefit more from the same within a cooperation framework, then, as players acting in an anarchic international system, enter a state of insecurity vis-.-vis those other states, fearing that they are being developed and strengthened to a greater degree than themselves, which leads them to have a serious motive to catalyze or to make their cooperation inactive (Grieco, 1988).

Furthermore, the transnational cooperation is hampered when the interests of the parties involved become conflicting or incompatible with each other, as because there is no imperial authority in the international arena which the states can turn to for their survival and safety. As a result they move and act in international politics having as a main focus to serve their private interests, as determined by them.

Regarding the cooperation within the framework of international institutions, in addition to the above problems of transnational cooperation in general, it further has to address the issue of dependence on the interests of international institutions. In particular, international institutions do not arise on their own, but are essentially a set of agreements and arrangements within in order for the states to promote and serve the common interests.

In this context, international institutions, even when they have their own institutional, important infrastructures and seem to function autonomously, in fact they are completely dependent on the states that created them and are members of them. More specifically, international institutions are defined in terms of their functions, their actions, the type and prospects of transnational cooperation provided by their Member States and in particular by the most powerful of them (Platias. 1995). This fact obviously limits and delimits the transnational cooperation in the framework of international institutions, and in fact in an unequal way, since the initiative of the movements and the primacy in the formulation of the terms of cooperation belongs to the Great Powers.

All the above problems of transnational cooperation (both in internal and external framework of international institutions) are further intensified when the subject matter of the cooperation issues are directly related to the states' security involved, such as transnational organized crime. States are hesitant to cooperate fully when the subjects is the foreground are security ones security, as their survival depends on it.

In such cases, the cooperating states usually tend to provide to their partners assistance and information up to a predetermined level which does not jeopardize the narrow core of their security interests. Therefore, transnational cooperation on security issues is the norm limited in scope and therefore limited in effectiveness.

The organized crime, precisely because of its nature, that is its impact on the security of the countries in which it operates, it is included, in accordance with the above, in those matters dealt with by States in limited cooperation36, which, however, can only have limited success. Given the fact, that transnational organized crime is not aware of such anchorages during the spread of its activities, the observed weakness of fully and radical fight against it on the framework of transnational cooperation in general and international institutions is easily explained.

Transnational Organized Crime and EU

Major criminal and terrorist organizations pose a significant threat to the EU's internal security, as well as to the security and well-being of its citizens. Organized crime "uses" borders in a variety of ways and EU member states adopt anti-crime measures, mainly concerning their borders. Organized crime is not just a form of crime, but the almost total challenge to the rules of social coexistence, democracy, state security, social and state cohesion that states have established (Arambatzis, 2018).

Intertwined with state sovereignty are state security and the security of citizens, which are a priority for EU member states under the Treaties. Thus, it becomes clear how important the impact of cross-border and transnational crime is on the sovereignty of EU member states, which is at the same time pose a visible and invisible threat to social, economic, national and European borders.

Transnational crime is part and a dominant element of the so-called organized crime (Patru, 2015) and as such consists a priority on the European Security Agenda. The global economic crisis, rising social inequalities, geographical unrest in the Mediterranean and the Middle East are creating fertile ground, especially for transnational crime, which is one of the five dynamic threats as defined by the European Council (European Security Strategy, 2003).

Two very characteristic types of organized crime in relation to their cross-border dimension present in the EU case, are the illegal transportation and trafficking of migrants as well as human trafficking, ie, the further exploitation of the person and his demotion to a consumable type of trafficking (Sykiotou, 2003). Particular emphasis in relation to its transnational dimension is given to arms trafficking, drug trafficking and money laundering, child pornography as well as smuggling, illegal immigrant trafficking and human trafficking.

The Council of Europe has adopted the broader term of organized crime, as it is standardized in Article 3 of the United Nations Convention against Transnational Crime. In this Convention, transnational (or transnational) organized crime is approached as that which is committed in more than one state and part of the perpetration takes place in another state or is committed in one state but is involved with the criminal group committing criminal acts in another state or, finally, is committed in one state but substantially affects another state (Council of Europe, 2015). That is, in the event that two or more countries are involved in the commission of a crime, there is talk of a transnational crime, while in the case of neighboring countries, there is a talk of a cross-border crime.

Critical factors in the development of transnational criminal networks in the European Union are, among others, the geographical characteristics of Europe per se, its socio-economic and cultural diversity as well as the extremely large development of telecommunications networks (Patru, 2015).

The EU has recognized the fact that the spread of transnational organized crime, is one of the five most basic and substantial threats that its Member States are about to face in the near future. The third pillar of the operation of the EU, meaning the cooperation between Member States in the field of Justice and of Internal Affairs (DEY), which was established with the Maastricht Treaty (1992), made a decisive contribution to a common action by States with a view to combating terrorism drug trafficking and other serious criminal actions.

The decision of the Tampere European Council (October 1999), on the establishment of the European Unit of Judicial Cooperation (Eurojust), as well as the adoption of the Treaties of Nice (2001) and Lisbon (2007), set the bases for dealing with and combating transnational organized crime, through the cooperation of the Member States of EU, but also through joint action with other states and international organizations (Patru, 2015).

To tackle cross-border organized crime, Europol is helping to strengthen security in the EU to the benefit of all its citizens, facilitating the exchange and coordination of information related to transnational crime (Coolsaet, 2010). Since 2006, Europol has strengthened its cooperation with Frontex (renamed in the European Border and Coast Guard Agency - EBGCGA) which is the European coordinating body for the establishment of special networks between border authorities, developing best practices for best practice protection, operational cooperation and management of European borders. In addition, the field of cross-border organized crime includes Eurojust, which allows the exchange of information and enhances the coordination of prosecutions, the European Maritime Safety Agency, and the European Migrant Smuggling Center), etc.

It is a fact that the deeper causes of this phenomenon are based on the EUs mechanisms of interdependence and homogenization of traditional states, which take place during process of globalization and consequently possess a direct challenge to the classic, commonly accepted assumptions about the sovereign nation-state. This practically means that within the newly formed context, where the needs of people of different convergence of international networks, transnational borders, traditional nation-states have largely lost their autonomy and have suffered a drastic reduction in state sovereignty. Therefore, dealing with the transnational organized crime is almost impossible if each state relies solely on its forces.

In many European countries, perpetrators of organized crime invest in legal industries mainly in transport, finance, real estate, and hotel industry and nightlife businesses to facilitate their illegal activities and in order to be able to money laundering their illicit receipts.

Critical factors in the spread of transnational criminal networks in European territory are recognized the very geographical features of Europe and here it is necessary to mention the small to medium differences of the Member States of the Union, in the socio-economic and cultural diversity as well as the extremely large development of telecommunications networks (Patru, 2015).

As already noted, intertwined with state sovereignty is state security, the security of citizens, the ensuring obedience to the institutions, which are required and consist a priority of EU Member States, on the basis of treaties and common policies. It is interdisciplinary that the aspect of security is a structural background of the crisis, combined with the terrorist threat carried over into Europe and the accumulation of destabilizing situations around the Old Continent.

In most countries that have introduced lockdowns and cross-border traffic restrictions due to Covid-19, there has been a reduction in organized crime (Inside Story, 2020). This is a strong indication of how important for the fight against and suppression of cross-border and transnational crime is the protection of the borders of the EU Member States, as well as the effective cooperation of national and European bodies with the proper implementation of harmonized policies.

European mechanisms prevention on land and EU maritime external borders against cross-border organized crime

A historical review of European prevention mechanisms, starting from the decade of 1970 onwards, allows us to refer to the first organized platform for European counter-terrorism cooperation which was the TREVI Working Group (terrorism, radicalism, extremism, violence international), created in 1976 by the European Ministers of Justice and Home Affairs (Coolsaet, 2010). Under this intergovernmental umbrella a group of police and domestic officers of the then 10 European Communities addressed the issues of terrorism, immigration and asylum.

The 1985 Schengen Agreement abolishing the internal borders of the participants Member States for the sake of an external border area, although it did not specifically address the issue of terrorism, required enhanced cooperation between the police, the judiciary across Europe.

Under the Maastricht Treaty (1992) the members of the TREVI group were reorganized under the third pillar of the European Union dealing with Justice and Home Affairs Cases. The new Europol organization was set up to facilitate the exchange and coordination of information exchanged between criminals and in particular with information related to transnational crime.

In fact, since 2006 Europol has strengthened cooperation with FRONTEX which is a new European institution for management of operational cooperation at the external borders of the Member States of the European Union. This European service, renamed from 2016 to European Border and Coast Guard provides additional technical support to EU Member States, coordinating missions by aircraft, ships and trained personnel to their borders. The role of FRONTEX (EBGCGA) is coordinating by setting up dedicated networks between border authorities, while developing best practices between border authorities' principles for the effective protection and management of European borders.

Its powers evolved one step further with the so-called rapid intervention teams known as RABITs (Rapid Border Intervention Teams) in exceptional cases, as well as unusual and urgent. Its assistance was needed in the case of Greece in the autumn of 2010 on the Greek-Turkish border. The concession of powers to the European service increases police powers while providing an additional layer of control of immigration.

European checks on Member States have not changed despite the economic crisis and they are obliged to cooperate with the EU in the field of security and on the issue of border management. One of the contractual obligations of the EU now is to integrate policies and implement harmonized border guarding practices with the Integrated Border Management (IBM) plan under the guidance of the organization FRONTEX-EBGCGA. Member States undertake to impose sanctions on crossing the external border, which takes place without permission, except at the border points conclude bilateral agreements on the exchange of information on fight against crime preventively and suppressively, etc.

In addition, FRONTEX announced partnerships with university professors and industry executives, so that in the coming years to introduce latest border security technologies. On the other hand, under his auspices already operating on European territory (Greece, Italy, Portugal) with drones (DRONE) for border surveillance and further dismantling networks that smuggle migrants and drugs.

In addition, in the field of tackling cross-border organized crime, and European Maritime Safety Agency (EMSA) with the mission of search and rescue at sea and the fight against marine pollution, faces serious protection problems, especially in the Mediterranean suffering from the passage of ships leaving illegal waste and pollute seawater threatening the safety and health of both tourists and of the inhabitants of the Mediterranean basin. That is why he is more involved in issues maritime surveillance by extending its statutory objectives to tackling organized crime due to the transport of dangerous goods by sea chemical or nuclear waste containers.

In relation to the crime of illegal immigration, which was immediately top priority on the European agenda, Europol established the European Center in 2016 Illegal Trafficking in Immigrants, known as the European Migrant Smuggling Center (EMSC). As Throughout 2016, the EMSC received 11,942 reports through its communication network Europol - an increase of 34% compared to 2015. These were data for more than 17,400 suspects of illegal trafficking of migrants and helped to promote more than 2,000 hypotheses and 490 searches for forged identities.58 It is also reported that the automatic data exchange program between Frontex and Europol / EMSC (PEDRA PROJECT) in 2016 facilitated the processing of data on suspects with data on the methodology of execution (modus operandi) and the illegal cross-border organized routes of crime.

In addition, the European body Eurojust, the establishment of which is attributed in Germany and France, the countries that wanted to take measures to improve the judiciary cooperation between Member States, allows for the exchange of information and support and coordination of prosecutions. The nature of migrant trafficking cases requires more close cooperation between countries of origin, transit countries and countries of destination and these cases are therefore closely related to international judicial cooperation.

Also cooperation with third countries is worth mentioning. In view of the composition and complexity of this crime Eurojust remains committed to cooperation with European institutions and bodies, and introduced actions in the communication plan by the Commission to the European Parliament and the Council on the elimination of trafficking.

In addition, its statutory objectives include the support of the authorities of the Member States to facilitate their investigations and prosecutions in cross-border investigations of crime. Finally, in relation to cross-border fraud and cross-border economic crime, the European Anti-Fraud Office OLAF has a significant role to play project, when annually resolves more than 200 cross-border crime cases yielding over € 3 billion in the European budget.

The EU has identified that more and more organized crimes by criminal groups are carried out via the internet either due to the possibility of not easy tracking down the perpetrators or because of the pandemic that has broken out around the world and the consequent ban on the movement of citizens within the Union. From 2016, many initiatives have been launched with the aim of creating an effective and genuine security for the EU. The European agenda which replaced the policy guidelines for EU justice and home affairs, such as the Stockholm Agenda adopted in 2009, is what the Union’s security for period 2015-2020. Nevertheless, the EU's foreign policy approach security under the Common Foreign and Security Policy (CFSP) and the Common Security and Defense Policy (CFSP) continue to be a key component of the EU’s security enhancement efforts within the EU.

Submitted by the Commission to the European Parliament on 24 July 2020 Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions communication on EU strategy for the Security Union. The goal is multidisciplinary, coordinated and an integrated approach to security in the EU area but also the cooperation with third countries for the integrated treatment of the Organized Crime. The fight against the organized remains key priorities in crime, terrorism and radicalization, as well as "crimes in digital age". The strategy focuses on strengthening and the best implementation of existing legal, practical and support tools.

The Priorities remain: (a) drug trafficking, (b) trafficking in firearms; (c) trafficking in human beings; (d) trafficking in human beings migrants, (e) environmental crimes, (f) trafficking in cultural goods, (g) economic and financial crimes and (h) the fight against money laundering347.

In May 2019, the interoperability framework between them was approved EU justice and home affairs information systems cases. This new architecture aims to improve efficiency and the effectiveness of new or upgraded information systems. The interoperability framework will lead to faster and more systematic information for law enforcement officials, border guards and immigration officials. It will contribute to the correct identification and the fight against impersonation. In order to realize the above aspirations, the implementation of interoperability should be a priority, both in both politically and technically. Close cooperation between EU agencies and all Member States will be of the utmost importance in achieving its goal of full interoperability by 2023.

Conclusion

This article demonstrates the rapid growth of cross-border organized crime and the ways in which criminal networks choose to exhaust and threaten stability and sovereignty of states through their cross-border business action. It also highlights the important role of borders in the action of the organized criminal groups and how the concept of cross-border, an integral component today in most forms of organized crime (e.g. trafficking and trafficking immigrants, women or international trade in psychoactive substances & weapons), needs to be thoroughly forensic study and investigation. Also, the need should not be sidelined balancing the legal necessity for the strictest possible regulations with the protection of individual freedoms, human dignity but also the preservation of the fundamental principles of a rule of law.

Today the complex criminal operations have the necessary political and economic means, so that disguised as legitimate businesses to cover their illegal nature without it is an exaggeration to say that they are now the invisible dominant players in politics, economic and social "chessboard", who seem to be moving a new, their own ‘International law’, for their protection and better coordination.

Borders have had, have and will have a crucial, perhaps the most vital role to play in successful action of criminal groups, by definition being visible or invisible gateways for any illegal activity, especially if we know that criminal operations are being set up around criminalization and bans, using the needs of the market to create new ones.

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