

## PHENOMENON OF ORGANIZED CRIME AND SPECIFICS IT IN THE LIGHT OF CURRENT ROMANIA

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### ABSTRACT:

*THE CONCEPT OF ORGANIZED CRIME DOES NOT APPLY TO SMALL GROUPS OF CRIMINALS BUT LARGE GROUPS, WELL ORGANIZED CRIMINALS WHO OPERATE IN A RELATIVELY WELL-DEFINED TERRITORY AND MAINTAIN REGULAR LINKS WITH OFFICIAL REPRESENTATIVES OF LEGITIMATE SOCIETY. IN THE WEST ORGANIZED CRIME REFERS TO GAMBLING, PROSTITUTION, ILLICIT SALE OF LIQUOR DISTRIBUTION NETWORKS DRUGS, MOVIES AND ESTABLISHMENTS PORNOGRAPHY, SCAMS LARGE SCALE EXTORTION OF FUNDS FROM CERTAIN ORGANIZATIONS OR CERTAIN INDIVIDUALS, TO ENSURE A SO-CALLED "PROTECTION" ONEROUS LOANS FROM MONEYLENDERS, THE SALE OF STOLEN GOODS, SMUGGLING AND THE EXISTENCE OF LEGITIMATE BUSINESS PURPOSES OF "MONEY LAUNDERING". THESE ACTIVITIES VERY PROFITABLE, COULD NOT TAKE PLACE WITHOUT THE PARTICIPATION OF THE INTERESTED GENERAL AND REPRESENTATIVES OF THE LAW AND EVEN A PART OF THE POPULATION. SO, ORGANIZED CRIME COULD NOT BE PRESENT WITHOUT CORRUPTION OF PUBLIC OFFICIALS WHICH INCLUDE POLITICIANS, POLICE, PROSECUTORS, JUDGES ETC.*

*ANOTHER FEATURE OF ORGANIZED CRIME REFERS TO THE FREQUENT COOPERATION WITH HONEST CITIZENS. BECAUSE TYPE CRIMINAL ORGANIZATIONS OFFERS FREQUENTLY, "SERVICES" OF THAT PERSON, SO PEOPLE ARE OPPOSED, OFTEN, POLICE INTERVENTIONS OR OTHER REPRESENTATIVES OF LAW IN ORDER TO DEVELOP STRONG ACTION AGAINST THESE UNLAWFUL. THE INTERMINGLING OF ILLICIT ACTIVITIES WITH THE LAWFUL COOPERATION OF MEMBERS OF CRIMINAL ORGANIZATIONS AND THE HOLDERS OF POWER AND ILLICIT REQUESTS FOR SERVICES TO THE PUBLIC FROM ORGANIZED CRIME ARE ONE OF THE MOST DIFFICULT AND COMPLEX PROBLEMS CAN NOT BE SOLVED BY TRADITIONAL MEANS.*

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**KEYWORDS:** ORGANIZED CRIME, CORRUPTION, ANTI-CORRUPTION STRATEGY, INTEREST GROUPS, PRESSURE GROUPS.

### 1. THE CONCEPT OF ORGANIZED CRIME

This notion raises difficulties of definition<sup>1</sup>, in some countries, is equivalent to murder a professional, committed by criminals "career", other countries, targeting all illegal activities which lead to the same extent criminal organizations of a state, organizations that transcend national borders, to operate internationally and even the state itself (as in the case of state terrorism.) For example, Alfred Lindesmith (1965) defined organized crime as a "crime usual professional ... involving a system of relations defined Specifically mutual obligations and

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<sup>1</sup>David Sue, Derald Sue, Stanley Sue, *Understanding Abnormal Behavior*, third edition, (Boston: Houghton Mofflin Company, 1990), 332-340.

privileges ", while Edwin Sutherland and Donald Cressey (1955) defined it as" the association between a small number of criminals to execute a particular type of crime. "

A report of the Presidential Commission on Law Enforcement and Administration of Justice in the US, established in 1967, defined organized crime as a type of "company seeking to operate outside the control of the people and the American government." According to the report, representatives of organized crime operating within an organizational structure complex where there are rules even more rigid and strict than those of a legitimate organization. Subsequently, another report, this time belonging to the Task Force against organized crime, special body of the Committee of National Consultant about the standards and goals Justice Crime in the US, revealed the following characteristics of organized crime:<sup>2</sup>

- Organized crime is a crime type combination, involving hierarchical coordination of a number of people to plan and execute illegal acts or to pursue a legitimate aim by means outside the law;
- The main purpose of organized crime is to obtain economic gains, although some of its participants may have the objective of acquiring power and higher social positions;
- Phenomenon of organized crime is not limited to business services clearly illegal or unlawful, such as gambling, prostitution, drugs, extortion or usury loans with funds. This phenomenon includes also complex activities including money laundering through legitimate businesses, scams property infringement and handling computers;
- To achieve its goals and preserve gains, using organized crime tactics robbery, seizing and extorting using means such as: bullying, violence and corruption;
- By experience and practice habits, combined organized crime groups are usually very prompt and efficient in relation to control and discipline their members, associates and victims. Therefore, participants in organized crime are not able to detach themselves, in combination, are basically incapable of going on the right track;
- Organized crime is not synonymous with the Mafia or La Cosa Nostra, which are the most experienced, diversified and possibly most disciplined of combinative groups;
- Organized crime are not part of the terrorists involved in political change, although members of criminal organizations and terrorists have a few common characteristics, in particular, the types of crimes and strict organizational structures.

Above mentioned report, as observed, avoid taking into account the organized crime and criminal organizations those activities which transcend national borders, focusing primarily on crimes committed by criminal groups within the state.

In contrast to this report, and Robert Marshall B. F.Meier<sup>3</sup> deemed Clinard. General characteristics of organized crime are:

- Hierarchical, involving a well-defined system of relations on mutual understanding of the obligations and privileges of members;
- Political or geographical boundaries Unlimited - Inside or intervilane; intrastate or interstate;
- Dependence of :
  - possible use of force and violence to maintain internal control and to restrict competition;

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<sup>2</sup>David Sue, Derald Sue, Stanley Sue, *Understanding Abnormal Behavior*, 333.

<sup>3</sup>Marshall B. Clinard, Robert F.Meier, fifth edition, *Sociology of Deviant Behavior*, (New York: Hoit Rinehart and Winston, 1979), 227-228.

- achieve and maintain permanent immunity against interference labor laws and other governmental agencies;
- Criminal operations directed to result in significant financial gains and specialization in one or more business combinations that fall within the areas of social deviation on which public opinion is divided;
- Establishing a monopoly or control of spheres of influence between or among different criminal organizations.

Also, William J. Chamblis<sup>4</sup> emphasize that the concept of organized crime has a wider scope than that which includes the actions of criminal organizations within a single national territory. Considering that only the public and the press in particular have accredited the idea that organized crime refers to the activities of a tight-knit group of individuals, "usually foreigners and in particular Italians," the author pointed out that the myth of the Mafia and Cosa Nostra has little to do with the realities of organized crime in America today. In his view, one can speak of the existence of well-structured organizations whose activities are conducted both inside and outside the country, such as smuggling of illegal goods (weapons ammunition). These organizations "are as dynamic as the business world and consist of networks of individuals including police, politicians, and ordinary citizens who invest in the illegal enterprises to achieve a tenfold profit."

Starting from the depicted we conclude that there two main views ways in which organized crime can be defined:

- a) *legal* point of view - that of organized crime as a whole illegal actions initiated by one or more criminal organization aimed at obtaining money or power;
- b) *social-economic* point of view - that the organized crime is "an integral part of social, political and economic development of a nation"<sup>5</sup> and that a mix of legitimate and illicit goods and services that provide citizens licit and illicit.

What is common to both points of view, is that both posits the idea that the phenomenon of organized crime requires:

- A specific organizational structure;
- The protection offered by corrupting officials;
- Goods and services provided to the public.

American Encyclopedia of Crime and Justice (1983) defined organized crime as a "persistent form of criminal activity that has a clientele that demands public goods and services defined as illegal. It is a structure or network of individuals generating or supplying these goods and services, using the capital to expand into other activities and corrupt legitimate or illegitimate with which public officials earn their protection".<sup>6</sup>

Recourse to legally prevalence of the idea of the existence of a national or international union of organized crime, sponsored by the Mafia or Cosa Nostra, adversely affecting the activities of organized crime control and prevention, because:

- Preclude a uniform definition of organized crime in various countries;
- Focusing efforts rather on detecting underground world of criminals than on measures to change the system.

<sup>4</sup>William J. Chamblis, *Exploring Criminology*, (New York: Macmillan Publishing Company, 1988), 86-88.

<sup>5</sup>David Sue, Derald Sue, Stanley Sue, *Understanding Abnormal Behavior*, 333.

<sup>6</sup>Francis A. J. Ianni, Elisabeth R. Ianni, *Organized Crime*, in Sanford H. Kadish (edit.), *Encyclopedia of Crime and Justice*, (New York: Macmillan, 1983), 196.

## 2. THE MAIN ACTIVITIES IN DOMAIN OF ORGANIZED CRIME

Organised crime covers a multitude of areas licit or illicit, the main income of members of criminal organizations from the activity of dispensing drugs, trafficking in arms and military equipment, tobacco smuggling, prostitution.

These domains may be added:<sup>7</sup>

- Illegal gambling, particularly sports betting matches with professional character, initiating "lottery" dubious etc .;
- Systematic extortion of money from individuals or organizations in order to "protect" against violence;
- Lending huge interest to people who are in desperate situations;
- The sale of stolen goods in consignments;
- Seizure of pornographic materials market;
- Committing fraud through computers;
- Controlling the activity and union funds, allowing criminal organizations to blackmail employers, threatening them with the possibility of triggering strikes.

Organised crime does not cover but only illicit activities, assuming and carrying out legal activities in legitimate businesses that allow "laundering" money, such as purchases of business law, acquisitions and property sales, trade in goods retail, transport, hotel network, food, garbage collection etc. However the most common legitimate business in which organized crime is involved.

The main routes through which members of criminal organizations may be involved in the work of legitimate businesses are:<sup>8</sup>

- Use these enterprises as "facade" to hide illegal activities;
- Parasitic exploitation for purposes of robbery, asking them their money employers to ensure protection;
- Organizing monopolies or cartels in order to limit competition;
- Acquiring illegal advantages through practices such as manipulation and corruption of public officials unions;
- Illegal manipulation of vehicles permitted by law for transport of goods.

Also, a way of unlawful use of such firms or legal business is the bankruptcy "planned" allowing cancellation "debt" owner (loans from the bank, goods purchased but not paid) and thus ensuring substantial profits, irrespective of any following legal sanctions accordingly.

## 3. COMPARISON BETWEEN ORGANIZED CRIME AND 'WHITE COLLARS CRIME'

The term "white collar crime" was used for the first time criminologist Edwin Sutherland, this notion referring to crimes committed during their work by people defined by a high and responsible position.

Offences white collar are of two kinds: a) crimes "organizational" (committed in the name of corporations or organizations) and b) crimes "occupational" (committed against the interests of corporations or organizations for the benefit of a member of these corporations ).<sup>9</sup>

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<sup>7</sup>Marshall B. Clinard, Robert F.Meier, *Sociology of Deviant Behavior*, 230-232; Larry J. Siegel, *Criminology*, third edition, St. Paul, (New York: Los Angeles, San Francisco, West Publishing Company, 1989), 336-338

<sup>8</sup>Merry Morash (1986), *Organized Crime*, in Robert Meier (ed.), *Major Forms of Crime*, (California: Beverly Hills, Sage), 198.

<sup>9</sup>Dan Banciu, Sorin M. Rădulescu, *Corupția și crima organizată în România*, (București Editura: „Continent XXI", 1994), 39-42.

Organizational offenses are: the sale of adulterated or defective products endangering lives and health, manufacturing gerrymandering to keep a product on the market, counterfeiting turnovers corruption. Acts of embezzlement, fraud, forgery and any action prejudicial to the interests of a corporation to satisfy personal interests of an employee constitutes employment offenses.

Because, in general, organized crime can not function without corrupting officials, between it and white collar crimes are a number of similarities:

- Both corrupt public officials use to maximize the benefits;
- Both use illicit means to achieve the goals;
- Both cooperate to satisfy mutual interests.

The difference between organized crime and "murder white collar" is not so much the type of activities as in their methods main achievement. The main methods that characterize organized crime and distinguish it from offenses white collar as violence, blackmail, threats and other illegal obtaining profits.

#### **4. EXPLANATION OF THE DIFFICULTIES OF APPROACH AND INTERPRETATION OF THE CONCEPT OF ORGANIZED CRIME**

The concept of organized crime poses a number of difficulties of approach and interpretation of the nature and content, and this is reflected in:

- Great variety and diversity of definitions is given and not a unitary character but also involves features and special features which can not be highlighted;
- traditional criminological categories;
- Difficulties in estimating the extent and dimensions of this type of crime;
- The limited use of conventional criminological methods for collecting relevant data in this field.

Organized crime is associated with frequent following features: scale territorial actions, the high degree of organization and structuring hierarchical networks and members, the amount of extremely high profits obtained illegally, choosing the most effective means to achieve the goals and merge illicit activities and licit.

Highly profitable activities of organized crime could not carry out without the interested party and contest off of some politicians, officials or representatives of law and without the support of part of the population. Given that organized crime members receive constant support of representatives of the law, efforts to combat and prevent organized crime will be greatly discouraged and directed in other directions. Therefore, the fight against organized crime can not be separated from the fight against corruption great state officials or other official authorities.

The two points of view on the definition and interpretation of organized crime - legal and sociological - have a number of implications for the interpretation and combating organized crime. The legal point of view, while not ruling out legal action nature, emphasizes the *illegitimate society*, causing focusing efforts solely to identify underworld criminals. Sociologically, while not ruling out unlawful actions, emphasizes *the legitimate society*, causing focusing on social and economic changes and the locking system and reforming the mechanisms that determine the genesis and operation of organized crime. Prevalence legally make efforts to prevent and combat organized crime to focus almost exclusively on policies and penalties, avoiding legislation economic and social actions to reform the economic system.

The concept of organized crime different from the concept of crime individual (ie crime) because it refers to organizations and not to individuals and that does not involve a mix of illicit but a "synthesis" of illegal actions and lawful initiated by many organizations aiding illicit and licit. It also differs organized crime and so-called crimes (offenses) that circumscribe

organizational or corporate, in their entirety, offenses "white collar". The difference lies mainly in their methods. In this respect, the main methods used by organized crime and that distinguish it from the organizational are: violence, blackmail, threat, physical suppression and other illegal means. As for similarities, both resort to illegitimate means to achieve their goals.

Both for organized crime and crime in the organizational notions of individual responsibility and causation criminological not operated for several reasons:

- In any organization, legal or illegal, complex mechanisms of hierarchical power sharing, conceal, often individual responsibilities of decision makers;
- An organization of type criminal acts of its members are not determined by individual subject motives, but by the standards of a subculture criminality, which are not developed by a single individual but by a group dominant in which responsibilities and decisions are dispersed and slightly transparent to outsiders such an organization;
- Because a criminal organization undertakes both legal and illegal, is very difficult to distinguish between its goals formal (legitimate) and actual (illegitimate) serving formal purposes only "facade" for concealing the real ones;
- Many of the illegal acts taken by a criminal organization are extremely difficult to prove and criminalized.

The offenses falling under organized crime are closely related to a legitimate company, using its structures and resources, including power resources for the benefit of criminal organizations representatives.

Thus many of ambiguity, uncertainty and weaknesses laws allow for great freedom of "maneuver" public official who can ignore some regulations can be interpreted, will, more often than not in the interest of citizens, but to satisfy private interests.

Some offenses of organized crimes are possible for those involved in it are even those who define or control, in that they run the control and prevention of organized crime and they are all subject to this control.

Often, representatives of organized crime ties with the legitimate representatives of the company stands at extremely high levels, allowing some high state officials make important decisions and use of power resources to meet the interests of members of criminal organizations.

Because often even the economic activity of the state is dependent on the activity of private organizations, many of them belonging even criminal organizations, the latter can circumvent the control exercised by the state, the more that have great power and influence economic and even political.

Circumvention in profitable purposes of the law, is favored by a segmentation of the various instances of social or legal control, operating, most often separately, or even enter into conflicts of jurisdiction. Illustrative in this respect, the relationship between DNA in Romania, Financial Guard, Police Economic Court of Auditors, ANI, among which, often, institutional conflicts prevail over efforts to fight economic crime nature.

Close relations of leaders of economic organizations statutory nature, but also using illegal means, representatives of executive power, it offers the possibility of the former to hide records or to submit selectively, thereby exerting a control over the type and the kind of information that It is given control bodies.

The very existence of democracy as the best system of government is not in itself a guarantee against the proliferation of organized crime, the latter developing into the imperfections of democracy. Being open and tolerant, democratic systems are vulnerable to mix legal and illegal, licit, illicit, which defines the essence of organized crime and against the corruption that protects its members from the sanctions law.

Even, the reform process implicitly justice reform, can have an effect contrary to the desired effect, since any process of development or restructuring creates irregular situation posing a conflict rules, principles and laws which can be often an opportunity the proliferation of organized crime.

The eradication of organized crime is not only possible through normative radicalization by multiplying broken criminal laws or policies of social policy. Organised crime in Romania are not due both criminal policy, and, especially, social and economic policy, which by the way is developed and applied generates discrepancies and inequalities, discrimination privileges for some and for others. Obviously, given that organized crime emerged with the genesis of capitalism as a social-economic system, Romania will face progressively with the climb this phenomenon, which is part of the "costs" of mandatory rules of the democratic game and economic market .In Romania, the transition meant a transition strategies and methods used by criminal organizations, which is why the fight against organized crime can no longer wear traditional means of justice. Romania's alignment with market economy requirements determined and determined yet, the emergence of more competitive economic interest groups which have large financial resources and to realize these interests using all manner of illicit means (illegitimate) between corruption is a primary means.

## **5. SPECIFICS OF CORRUPTION AND ANTI-CORRUPTION STRATEGY IN ROMANIA**

In Romania, the phenomenon of corruption does not occur only at strictly economic, that the relations between operators, but extends to the level of senior officials and state officials, who instead of serving public interests served, in fact, private interests of groups or of citizens. Therefore, we can say that in Romania, the phenomenon of corruption has also a political dimension.

The frequent emphasis according to which Romania is a country with high corruption but not corrupt highlights, in fact, poor effectiveness of relevant institutions in identifying and sanctioning officials and politicians who have committed or been involved in corruption. Except for giving and taking bribes, influence peddling, abuse of office, Criminal Code of Romania does not, to the 2009 adoption of the concept of corruption, only referring to sexual corruption of a minor. It was not until the 2009 Criminal Code introduced a special chapter which refers explicitly to corruption offenses and service.

Corruption can be defined as an abuse of authority or power, involving the use of public office to obtain benefits, making it the intersection between the public sphere and the private sphere of authority.

It is closely related to the mechanisms of power and pressures on public servants to meet illicit favors the phenomenon of corruption exists in all societies, having thus universal, but national peculiarities.

Because legal norms are divergent and conflicting answers, showing some misunderstandings and ambiguities, we can say that Romania is in a crisis in the administration of law and justice. Such circumstances provide a great public servant for maneuver, which may ignore or interpret certain regulations in his personal interest. However, its position, the civil servant has access to a number of special information which, if realized, I can bring important benefits. The higher the position of general officer, the risk identification and punishment is lower.

The results of opinion surveys on public perception of corruption conducted by the Sociology Institute of the Romanian Academy in 2003, shows that the main causes of corruption in Romania genesis and amplification are:

- Authority and credibility crisis of authority and institutions;

- Lack of competence and determination of the political authorities and the state in exercising tighter control on the behavior of economic agents;
- Lack of political will to sanction corruption (absence or mildness of sanctions);
- The state of chaos, disorder and anarchy in the country is;
- The direct involvement of representatives of political and state authorities in corruption;
- Extending the scope of corruption in key institutions (government, parliament, presidency, police, justice, etc.);
- Ineffectiveness of the functioning of institutions in Romania;
- Perpetuation of the old communist structures in the sphere of the old regime and privileged involvement in illicit business;
- "Thirst" of political power at the top of the social pyramid people, even at the risk of tolerating corruption;
- The slow pace and poor style printed authorities privatization process.

Also, the results of the same survey highlights that for part of the population, corruption is an "enemy" of reform, while another category of the population, it is an "ally" of the same reforms identified with himself the reform process, so that any restructuring effort in no other purpose than enriching "favorizaților" political regime in Romania.

In 2004, the National Institute of Criminologie in collaboration with the Sociology Institute of the Romanian Academy have conducted research on "Public perception of corruption in Romania in the transition period" findings of the investigation showing that the Romanian population perceives the phenomenon of corruption as a social problem very The crisis that has many implications both for proper system operation social, economic and political as well as social category-specific quality of life.

Studies of the perception of corruption is one of the most important tools to measure "indirect" corruption, given that there are no means capable of assessing the intensity of this phenomenon real. Also, these studies have an important role to implement anticorruption strategies because it contributes to quantify the efforts to combat and prevent this phenomenon.

Apart from involving illegal and immoral phenomenon of corruption has a number of negative effects on the development process, helping to braking and economic capital investments and to an increase poverty and inequality. What must be stressed, however, it is that despite the efforts of social control factors, anywhere in the world, corruption can not be eliminated entirely. Therefore, efforts must be directed not so much to eliminate corruption but for keeping it under control, so that they become morally unacceptable and punishable by legal means. What assume control of corruption is a particularly social effort and orientation of the various institutions of social control actions in a unified direction.

In Romania, they have created the basic conditions of a national anticorruption strategy, consisting in developing mechanisms, standards, documents and action plans for combating and preventing corruption. However, there were still recorded outstanding results in fighting corruption.

According to the audit conducted by Freedom House, in 2005, the Romanian government actions to combat corruption, this area has the following vulnerabilities:

- Lack identify and address key issues and priorities in combating corruption, given that an *assessment* was not carried out before completing the details of the national action plan;
- Too much emphasis placed on the adoption of new laws and regulations, rather than the existing *impact analysis*;
- *Poor coordination* between different existing laws;
- *The non-inclusion of certain areas and major institutions in anti-corruption strategy*;



- *Poor coordination* of the implementation of anti-corruption strategy in general, because, among other things, the existence of too many mechanisms and institutions involved in the fight against corruption.<sup>10</sup>

According to experts any anti-corruption strategy must propose (at least) three main objectives: a) identifying risk factors; b) the ability to unite in a unified effort in the area of prevention, all mechanisms and institutions involved; c) public education and changing attitudes through a more effective mobilization of civil society. Romania has created the basic conditions to implement these objectives, following the relevant institutions to continue to fight the scourge of corruption.

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<sup>10</sup> Jennifer Windsor (coord.), *Politicile anticorupție ale Guvernului României. Raport de Evaluare*, (Washington: D.C. Freedom House Inc, 2005)

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