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THE INSTITUTE OF INTERNATIONAL POLITICS AND ECONOMICS



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*Miodrag Labović*¹

Social Dimenzions of the Theoretical New Types of Organized Crime

ABSTRACT

The study take a systemic and qualitative approach. The research is founded on long-term authors survey based on the statistical indications and 37 in-depth interviews with officials.

The findings of this article are: Five types of organized crime were identified. Besides well-known types of organized crime, this study found two new types of organized crime; institutional and institutionalized organized crime. This new typology distinguish from the previous typologies because criteria were taken are not only by organizational shapes, but also criteria such as: social connections, establishment of the organized crime in the state-political structures, a high rate of damage which has been made in the society.

The key point of this research is founded on authors capability of abstract perception for resolving the social control of institutional organized crime. The statistical indications and data collection by the in-depth interviews are very important. However, original visions and new ideas of the authors for resolving the greatest problems in the society always has been a key factor of each relevant idea in the field of natural and social science.

The practical implications of this article represent a useful guidelines for governments to deal with institutional organized crime: foundation of optimal independent agency; new operational tactics and methods. Of course, this solution needs political will for appropriate legal changes.

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The scientific value and one of the main point of this study is finding solution for exceeding a high rate of institutional organized crime. For that purpose, this study found that the problem might be resolved if in the legal system will be foreseen foundation of optimal independent institution against institutional type of organized crime which is inseparably linked with high type of corruption. Optimal independent institutions means independent from the government, but not from the wide social control. This solution is guided by the knowledge that all governments in the world has a huge power, but the governments in the fragile societies has a quite huge concentration of power. The developed countries with traditional democracy, political culture and law awareness can be dealing with this problem. But in the transitional and undeveloped countries there is lack of such determinative factors and the governments are really dominant source of institutional organized crime.

Key words: institutional organized crime, corruption, government, independent agency

Introduction

In the frames of the generic term for organized crime, among the different types, shapes and kinds, there can be differences in organizational, methodological, teleological and territorial sense.² Depending on the political, social, economical and other positioning in institutional hierarchy in one or more states, the players in organized crime, as well as their connection with social structures, we can look into different situations and contexts in committing organized crime.

- 1) Organized crime is committed immediately by organized criminal groups (criminal underground) with partial, instable or in some cases without any support of the state and political representatives of whatever rank in the levels of the state and political hierarchy of one or more countries.
- 2) Organized crime as well is committed in cases when (in)directly involved representatives of lower or higher levels of authorities; even the highest representatives of state and political hierarchy of one or more countries.
- 3) Organized crime is committed by teams between criminal underground, political and business elites.
- 4) Organized crime is committed immediately between political and business-elites.

² Miodrag Labović & Marjan Nikolovski, *Organized crime and corruption*, Faculty of security, Skopje, 2010, pp. 59-60.

- 5) Organized crime is committed immediately between political elites and criminal underground.
- 6) Organized crime is committed immediately between business-elites and criminal underground.
- 7) Organized crime is organized by the highest state level as a consequence of the general concept of systematically corrupted politics, with strong impact on the international economical and political relations in the function of accomplishing long term geo-strategic and geo-economic interests of the gross capital which originates in the most powerful countries in the world.

Types of Organized Crime

The types of organized crime can be distinguished by the following criteria:

Social connections established in the system;

Organizational shapes, or the level of organizational postulation and hierarchical structure inside organized criminal groups;

The scope of the non-material and material harmful consequences which come from different types of organized crime.

For the complex and contradictory term of organized crime, from scientific and theoretical reasons, as well as because of practical and operative value of use it can be thought about consequent optimality of the question:

- Whether in the frames of the unique term for organized crime we should distinguish different organizational levels, regarding the use of only one of the criteria as such the organizational form and consequently the organizational typology of organized crime, or
- Different types of organized crime should be distinguished as separate terms.

In determining the need for appropriate organizationally functional placement of competent bodies it should be stressed in the normative and institutional structure of certain countries, with a state hierarchy of the systems of fragile transitional and poor societies, the organizationally functional placement of these bodies depends mostly on the efficiency and, most important, their effectiveness in the fight against organized crime. By all means that would reflect on specific methods, especially tactics which are not and can not be the same for detecting and proving of different types of organized crime.

In that sense we could differentiate the following types of organized crime:

- Group organized crime;
- Network organized crime;

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In that sense we could differentiate the following types of organized crime:

- Group organized crime;
- Network organized crime;

- Mafia type organized crime;
- Institutional organized crime in which representatives of the middle-upper or upper levels of the state authorities are directly involved;
- Institutional organized crime in which highest state and political officials (from the actual state authority or political opposition) are directly involved due to accomplishing of personal and close fitting interests of the political party;
- Institutionalized type of organized crime is the most perfidious type in the context of general concept of a systematically corrupted foreign policy, continuously lead by the most powerful countries in the world in order to achieve geo-strategic and geo-economic long-term interests of a gross capital. It is about an old practice of imperialism and today's ex-territorial neo-colonialism. Novelty is that the author has shaped theoretically the level of organized crime, with scientifically valid arguments.³

Moreover, in order to implement such policies, all multilateral political, security and financial organizations, and even the international courts have been used as instruments. This policy of the most powerful countries in the world today has a dominant influence on the international political and economic relations. *Ultima ratio* of this policy are military intervention, with or without approval of the UN Security Council, as well as the secret logistics of organizing civil wars, inter-ethnic conflicts and other various armed riots, state putsch and terrorist attacks on sovereign states that are thousands of miles away from the aggressor country. Nevertheless, we are witnessing notorious empirical examples from the contemporary international reality of applied methods of "double criteria" for the same or similar occurrences, harsh interference in the internal affairs of sovereign countries whose governments do not converge with the global politics of the dominant power. It is a flagrant violation of principles of international public law, even its full suspension. To rationalize these attacks, various excuses are used for alleged prevention of humanitarian disasters, protection of human rights and freedoms and so on.

Not even the citizens of great power countries are protected from subtle directed terrorist attacks in whose territory the attacks are conducted, if it is in the interest to fabricate public opinion in order to undertake further steps in the context of the general concept of a systematically corrupted politics. There are indisputable scientific evidences that by methods of mathematics, physics and chemistry prove that the alleged terrorist attacks on September 11, 2001 in New York could not be organized without the logistics of the American secret

³ This theoretically new concept, launched for the first time in: Miodrag Labović "The Authority Corrupts", De Gama, Skopje, 2006, pp. 85-87.

services.⁴ Collateral damage of all these violent "export of democracy" and state terror, expressed in thousands of murdered children, women and older people, goes beyond any damages that might be done by any other type of organized crime. On the contrary, the institutionalized type of organized crime in the form of aggressive war or state terror remains a "grey zone" of legal sanctions in the international documents and national legislative of the countries in the world.

This type excludes the individual criminal-legal liability, among other things, since these acts are not treated as an execution of criminal acts by the highest representatives of those countries, but as a legitimate conduct of foreign policy. Even more, unseen precedent is sought in order to exempt the commanders from any criminal responsibility as well as the other representatives of the armed forces of the United States in front of the International Criminal Court, by which all the other parties involved in armed conflicts around the world are found to be in a very unequal position. From that point of view, this type of most perfidious organized crime so far represents a sociological, hidden crime, and not a crime in the criminal-legal meaning of the word. Therefore, this crime is unrecognizable, not only for ordinary citizens, but also for the great part of the expert's and scientific community.⁵ The way out of this situation, cannot be found in the apocalyptically fatalistic predictions or expectations for spontaneous reallocation of historical dominant world power in the new multi-polar or bipolar world. The way out must be sought in the neutralization of the causes that led to the general concept of a systematically corrupted politics whose consequences is institutionalized organized crime and the rapid growth of international terrorism. In that context, the new avant-garde scientific thought should play an important role, by strengthening the awareness and by creating pressure on all levels for new and fairer international order, distribution of work and incomes.

According to the above mentioned criteria, organizational form is not the only criterion in forming typology of the organized criminal groups. In the year 2002 The UN published the results of one research carried out in 16 countries which differentiates the organizational forms of organized criminal groups in the world. The results from the research lead to organizational typology, which distinguished five ideal types of criminal organizations: standard hierarchy, regional hierarchy, clustered hierarchy, core group and criminal networks. This typology has certain scientific relevance, but only from the aspect of organized forms of organized crime. It does not take into consideration the other criteria

⁴ Kevin Bareth, *Wisconsin state journal*, Wisconsin University, 2006. This interview is published by the daily newspaper "Utrinski Vesnik" 5/6 august, Skopje, 2006.

⁵ Miodrag Labović & Marjan Nikolovski, op. cit. pp. 92-7.

for typology of organized crime.⁶ Namely, for each separate type of organized crime in reality there exist adequate organizational forms, which do not always need to be the same for one type. That depends on more factors. Among the most important are the socio-political and economical conditions in the country where it takes place. For example, institutional organized crime can be expressed through various organizational shapes and various shapes of organized criminal activities etc.

All types of organized crime can be elaborated more concretely. In this occasion, because the space does not allow, we will elaborate only on institutional type of organized crime. Particularly interesting is the new theoretical concept of institutionalised type of organized crime. For the other types we will mention only the lowest type of organized crime — group organized crime, the most referent definition is according to the Convention of trans-national organized crime of UN, Palermo, 2000. Here in fact the term organized criminal group is defined, where the minimum number of constant elements must be fulfilled if it is to talk about organized crime regardless of its type. As the mafia type of organized crime is extensively written in literature, we will not discuss it any further here but, we will continue with the determination of the notion of network organized crime.

Network organized crime represents horizontally organized scheme for committing serious criminal offences by multiple subjects, with strictly defined roles for each concrete criminal action, by which, except for a core of the small criminal group, the other co-involved are continuously changed depending on the type of the concrete criminal activity. For that, some of the co-executors are hired ad hoc in the execution of the “dirty” criminal jobs, other co-involved are hired without their knowledge of being part of a criminal chain, executing completely legal transactions in order to launder money, acquire illegal financial or other benefit.

2.1. Institutional Type of Organized Crime

The difference between group, network and mafia type of organized crime on one side and the institutional type of organized crime on the other side, along with its theological nature, is reflected in the method of execution as well as the organizational structure. Institutional organized crime is a bit looser, which implicates a loose style of governing and discipline in the small but dynamically operative criminal groups. In the cases of institutional type of organized crime where the highest officials of state and political structures are directly involved as organizers, when they are discovered, those cases can not be proven and

⁶ Michael Layman & Garry Potter, *Organized Crime*, Magor, Skopje, 2009, pp.11-6.

criminally processed for many reasons. One of the basic reasons is due to the fact that all competent state institutions for detecting, proving and prosecuting of the perpetrators of criminal offences in the field of organized crime and corruption are both under direct control and depend upon the highest state officials, who at any time can remove or dismiss the law enforcement officers. Namely, in the institutional type of organized crime it is not about the symbiotic link and cooperation between organized crime (criminal organizations, whatever form they have), on one side and the representatives of the state (politics) on the other, as is mentioned by many contemporary authors in the world. The most referent authors in the world do not incorporate the connection of the highest state and political officials in committing criminal offences as a basic, constitutive element in all these definitions. Alternatively they incorporate the elements into definitions such as "in team between the criminal organization and the state"; "or with corruption"; "or with using the special social position" and so on.

On the contrary, in this type of organized crime, the organized crime originates and is organized by the highest representatives in the organizational hierarchy of state and political structure of one country (which does not exclude the possibility in specific cases instead of them, to involve other high or middle-high representatives of the state without their consent). That consists of the "devil" of institutional organized crime for which colloquially, as metaphors are used with syntagmas: political mafia, political underground and similar. Each state has its own mafia or mafias, but in Macedonia the political mafia has its own state. In this maxim in few words a big part of the truth is told for the complex conglomerate of the emerging shapes of organized crime in the Republic of Macedonia.⁷ That is a diametrically different empirical and real state of organized crime in RM, especially in relation to the conditions of organized crime in the developed Western World.

Namely, the essential difference between the representatives of the wider approach and the author of this paper is in the following:

I. The representatives of the wider approach talk about close connections (relation bond, symbiotic link, immediate cooperation) between the criminal organization and the state or the politics, police, judiciary, public administration, media etc. Some of the authors input corruption as an element in the definition of organized crime but, only alternatively, as one of the elements or methods through which organized crime is accomplished.

The author of this paper opens a new term of the institutional (political) type of organized crime (which will be discussed more concisely in the text below). This new theoretical concept existing in the practice of institutional type of

⁷ Robert Hislop, *Calm before Storm*, FIOS, Skopje, 2002, pp. 3.

organized crime, is not only about the close connection (relation bond, symbiotic link, immediate cooperation) between organized crime and political power but, the fact that representatives of different levels of the state and political institutional hierarchy (who can be the most important and highest officials in a state) are in fact, the main bosses, organizers and command-givers of this new theoretical type of organized crime.

II. For the representatives of the wider approach, without exception, corruption is one of the methods of organized crime without which it cannot function over a long term with stability.

For the author of this paper, corruption is not just one of the methods of organized crime without which it cannot function in the long term but, corruption is the basic, constitutive element of the term institutional organized crime. Namely, the corruption in the institutional organized crime is expressed as abuse of public authority, not only in one of the elements, or the methods through which organized crime is accomplished but it are its imminent, obligatory component which presents, in fact, its most important constitutive element. I claim this because the representatives of state and political structures, in the frames of this new theoretical type of organized crime, are not only helpers, associate collaborators and "tool" — of organized crime for which they are usually bribed or are corrupted through different manners and forms. On the contrary, the representatives of state and political structures organize the specific organizational structure of the institutional type of organized crime. They, as organizers or main bosses, in the division of the crime profit take the biggest part for themselves and the rest is given to the other accomplices. They dictate who is to do what and how much he will get at the end, or whether he will maintain a certain position which was given to him from the political top.

The term institutional (political) organized crime is a brand new theoretical term which implies a lot of concrete practical consequences in the fight against organized crime, with specific characteristics for certain countries.⁸ Here the corruption exists in a very subtle way, through abuse of the institutional hierarchy which is legally governed under the veil of conveying a legitimate policy. Of course, the institutionalised type of organized crime does not mean that all individuals in one numbered institution are involved, but it does mean that this is the most dangerous type of organized crime. In the social problems that it provokes, it comes from the top of certain institutions, abusing the key parts of that institution or institutional hierarchies in many state institutions.

That is a diametrically opposite and essential difference between the theoretical new type of institutionally organized crime and all the other types,

⁸ Miodrag Labović & Marjan Nikolovski, op. cit. pp. 53, 80-92.

that is to say, the organizational forms of different groups of organized crime that are mentioned by the leading authors in the world who deal with this problem. From this diametric contradiction come a lot of different consequences because, I believe you will agree with me, it is not the same when the state is on one side and organized crime is on the other, even if the highest representatives of the state were indirectly involved, or were helping organized crime. Namely, during the indirect correlation of the politicians with organized crime, as much as their connection is tightly knit (closely, symbiotic etc.), and the relatively long term co-operation (not to mention the incidental and ad hoc connections and similar), those relations are not stable because they do not originate from the politicians and, most importantly, they do not dictate the rhythm. When the conjunctural political interests of the state authorities are added to all this (who easily go through metamorphosis under pressure from the public in democratic societies and the danger of losing political points), they easily can refuse the co-operation, especially if it was performed by conspiracy and without leaving compromising materials.

There are important differences in a situation when the highest state officials are directly involved as organizers, main bosses around who the main core of the organized crime spins around. From here, in fact comes the corruption as unchangeable, constant and constitutive element in the term of the institutional organized crime. In institutional organized crime the corruption does not come through conventional ways of bribery, even when it comes to millions in convertible currency toward the highest state officials in their eventual help in the elections (financing political campaigns) or other type of conventional corruption transactions. The corruption here is expressed in its essence as abuse of the public authorisations of the directly involved highest officials as organizers and main bosses. Of course, they do that through their close associate collaborators, and when they have to communicate directly, they do that subtly, in perfidious ways in order not to leave any evidence behind them. However, it is important to understand that when it comes to institutional organized crime, politicians have the final word and hold all the leashes in their hands, which is not the case when eventually the highest state officials have connections or co-operate in some way with the criminal organization, which decides on the priorities of their criminal activities. As far as the politicians are concerned about giving help with or without agreement, the criminal organization can decide how much of the criminal profit will be given to them. The help is essential from the highest state officials for the criminal organization and is needed because of the stability and long-lasting highly profitable criminal activities. Nevertheless, criminal organizations with or without help from the highest state officials continue with their work executing it more or less successfully with the help of other methods and establishing co-operation with other criminal groups, organizations and on other levels of the state and political structures.

In the transitional and undeveloped countries in the world, where the institutional type of organized crime is the most specific, its diversity from the other types gains in weight. This is due to the fact that in those fragile societies without democratic tradition there is a weak and low qualitative normative and institutional structure, legal awareness and political culture. The lack of professional standards shown through incompetence and without respect to a "merit" system in the key institutions authorized to fight against organized crime, as well as the constant suspicions in regard to the independence of the judiciary and public prosecution, lead to the conclusion that for this special type of organized crime in these countries qualitatively radical reforms are needed. Deep reform incisions are required, rather than the standards for the countries of the developed world with democratic tradition.

Consequently, I consider that critical trait as an obligatory, constitutive element of the term for the newly launched type of institutional (political) organized crime is:

- Directly involved representatives of the state and political structures as organizers or main bosses of organized crime.

Besides this specific element of the institutional type of organized crime, at least a minimum of the other most characteristic, constant elements for organized crime, as a generic term, need to be fulfilled:

- Organized criminal activity of three or more persons according to (non) formal contract/ plan for committing the tasks;
- Relatively longer period;
- Perpetration serious criminal offences and
- Gaining financial and/or material benefit or gaining and/or maintaining of political and/or social power.

According to the author, without the existence of this critical, constitutive element, regardless of the fact that cumulatively there may exist other most characteristic elements, there is no institutional organized crime. It can be discussed for group, network or mafia types of organized crime, which organizational structure may be on the higher level rather than in the institutional crime, however the danger to society in every aspect is incomparable in regard to the other types of organized crime. Institutional organized crime is the most sophisticated and softest according to the methods of acting, but with the most destructive and incomparably higher material and non-material harmful consequences in the undeveloped and transitional countries. This type of organized crime in its different shapes and variants existed, exists and will exist in different countries of South-Eastern and South-Western Asia, Central and North Africa, South and Central America, and of course in South-Eastern Europe. In these countries in parallel with the existence

of the institutional organized crime, the corruption perception index is the highest in the world.

Political elites in the transitional countries in South-Eastern Europe, with their relation towards the national and natural resources, state capital, foreign help in form of donations, "soft" credits and the abuse of European Foundations, only confirm the cruel reality for the existence of the theoretical new-launched type of institutional organized crime. The author nevertheless considers that the scientific level does not correspond with the level of trivial details of stories which are narrated by Michael D. Layman as Garry V. Potter for the relations and the cooperation of almost all presidents of the USA in the last seven decades. For these affairs there are no verdict, except operatively "confirmed" knowledge.⁹ However, I consider that we must respect the constitutional guaranteed right of presumption of innocence, therefore no name shall be publicly exposed before verdict. Secondly, the science cannot rely on sensational and spectacular information even in cases where those were checked operatively, because the suspicion about the reasons for delivering such information always remains. Sensationally-spectacular approach of Michael D. Layman and Garry V. Potter, is best described as in the ocean of a multitude, one can be "drowned" in the waters of positivistic-empirical hyper-informing, without coming to scientifically-theoretical valid generalisations and conclusions.¹⁰ With a lack of an epistemological and theoretical developed system, much useful information and data for concrete events and characters from the underground of the organized crime, as well as their relations with prominent corporations, businessmen and the highest state officials in The USA is lost.

In all reports of the relevant international factors, organized crime literally is stressed as the biggest problem for the Euro-Atlantic integration of the countries from the western wing of South-Eastern Europe. In the past years because of the wrong perception and the wrong therapy that was used there are still no essential signs for improvement of the condition. Thus, (if we take as an example The Republic of Macedonia), except in scope, the number of detected and processed cases increased, but nothing changed regarding the structure of the reported and convicted individuals. That is in direct co-relation with the non-existence of cases against the highest officials of actual authority and their conviction with effective prison sentence, as well as confiscation of huge amounts acquired property by crime. Namely, we are witnesses of multiple arrests but seldom, if ever is there a judicial verdict for some the highest ranking officials. However, that usually happens to the oppositional officials. By

⁹ Michael Layman & Garry Potter, op. cit., pp. 426-74.

¹⁰ Michael Layman. & Garry Potter pp. 96-143 and 426-74.

exception, we have rare examples of arrests and criminal charges for some renegade state secretary, mayor, and in only one case a minister of the actual authority. All the others who are arrested are lower clerks, who are sacrificed in contribution of the supposedly increased fight against organized crime and corruption. In fact, that means "throwing ashes in the face of people" and creating a fake picture in front of the international factor. On the contrary, empirical examples are numerous from the past 18 years in The Republic of Macedonia for unseen robbery of social and state capital. On the level of operative-police processing, most of these cases were proven, and the number exposed by the media was even larger but, almost no one is resolved with a verdict, in the above mentioned sense.¹¹

2.2. Practical Consequences of the new definition of the Institutional Organized Crime

These theoretical elaborations have exclusively significant practical consequences, because it does not suit the befogging of the definition for priorities of supreme national interest in the fight against institutional organized crime in the transitional and non-developed countries. Besides this, we should not forget that in the Convention of the UN a definition for organized criminal group is given, which contains the four constant elements that must be fulfilled for each of the different types of the organized crime. Nevertheless, new working definition is needed for internal, operatively-functional use in the context of specific national interest, taking into consideration the differences in the causes, conditions, aims, shapes and the types through which organized crime is executed in the transitional and undeveloped countries, and those in developed countries.

Practical consequences of the new definition are seen in the key solutions for social control of institutional organized crime, which must be systematically postulated in a general, coherent systematically strategic approach in the fight against the organized crime and corruption.¹² Here shortly some of them will be displayed:

I. The need of new organizationally-functional postulation of the optimal independent institution authorized in the fight against the institutional organized crime and with it inextricably linked high type of corruption. With rational confrontation of the arguments for and against the concept for security community opposed to the concept for unified and optimally independent institution, which will unite the scattered authorizations and competences

¹¹ Miodrag Labović, op. cit., pp. 274-325.

¹² Miodrag Labović, op. cit., pp. 325-428.

among the split and non co-ordinated state bodies in the field of fight against organized crime and the high type of corruption, the second concept is chosen. This takes into consideration the specific determining factors in The Republic of Macedonia and other similar countries, which are significantly different from the factors in the leading countries in Western Europe.¹³ For that purpose, I suggest the following possible solutions:

1. Namely, from the in-depth analyses it can be concluded that an optimally independent institution is necessary. This institution should be competent for the fight against the organized financial crime and high type of corruption. Also, this institution needs to be with the concept that it will be independent from the executive authority, which by definition is the fireplace of the corruption everywhere in the world regardless of the fact at what level those societies are corrupted. However, this institution does not mean to be free of the system of the social control established through crossing series of controlled mechanisms. It is important to mention that the formation of an optimally independent institution for detecting and preventing of organized financial crime and a high type of corruption does not mean total undertaking of authorizations of the institutions that already work on the problem. The title determines the competence and the authorizations of the institution. Classical functions (competences and authorizations) furthermore are subject to the already existing institutions.

The need of an optimal independent institution comes, among other things, from the need to design specific tactics in the fight against the institutional type of organized crime, as well as their professional operative specialisation. This will take into consideration the difference, not only in the tactics of undertaking certain operative-tactical measures and actions but, also certain activities according to different types of organized crime, as well as the different types of crime. The method for detecting and proving is almost the same for the different types of organized crime of the same shapes, as well as the other kinds of crime (classical, conventional and unconventional).¹⁴

2. Formation of an autonomous organizational unit for detection and prevention of organized financial crime and a high type of corruption, whose director will be directly responsible to the Government, with the same or similar internal organization, competences and authorizations, as the above mentioned institution.

3. Autonomous organizational unit within the frames of the Ministry of Internal Affairs, with equal hierarchical level as the Directorate of State Security

¹³ Miodrag Labović & Marjan Nikolovski, op. cit. pp. 259-68.

¹⁴ Ibid, op. cit. pp. 105-7.

and Contra-espionage and the Bureau of Public Security in the organizationally-functional postulation of the Ministry of Internal Affairs, with concrete defined functions (competences and authorities), organization and systematisation.

The last two are the minimal requirements, especially in fragile societies for successful institutional and organizationally functional postulation of the bodies authorized for immediate operatively-detecting work, without which it can not come at all for judgement and prosecution against the perpetrators of criminal acts of high type of corruption and organized financial criminal. Not to be forgotten, the two most mentioned problems on the way towards the Euro-Atlantic integrations of the transitional countries of the Western Balkans are the true core of the cancerous tissue with metastases towards the other parts of weak and sick societies. In situation, when different agencies are formed as independent bodies in the state administration. If for the most serious problems as such organized crime and corruption, normatively-institutional assumption has not been created for realisation of one of these minimal variants (which in fact represent recommended standards in the international documents), that in the slightest sense will be one of the biggest and safest indicators for not having real political will in resolving this problems. Of course, in the frames of these solutions diverse modifications are possible which correspond with the specific conditions in each country concretely.

II. State public prosecutor needs to be elected by an independent body, not as it is done according to the present constitutional solution in The Republic of Macedonia. The State public prosecutors have been appointed and dismissed by the Assembly, on proposal of the Government, after prior consent of the Council of public prosecutors, which is legally binding for the Government. That independent and professional body, for example, the Council of public prosecutors, according to the manner of its constituting in The Republic of Macedonia provides minimal independence from the executive authority. It is known that in large number of countries the Public prosecution represents part of the executive authority and consequently the Governments have certain competence in terms of the election and dismissal of the officials in the Public prosecution's office.

However, taken into consideration the specific determining factors of the transitional and non-developed countries, as well as the level of political culture, legal consciousness, absence of democratic tradition, specific mentality and similar, it is necessary to emancipate this extremely important state institution by the Government, with the aim for effective functioning of the legal system. Namely, when it comes to cases of high type of corruption and organized crime, in which except for the charges of ex-officials (present representatives of the opposition), involving current high governmental officials, it is suspected by the public that the law is selectively applied. Due to the fact that the Public

prosecution functions according to the principle of hierarchy and subordination, State public prosecutor (for example in RM) has discretionary right to order that one case should be given from one to another prosecutor in the frames of the same prosecution office or some other public prosecution office; to reject the case (reject criminal charges), judging according to personal conviction that there are insufficient amount of elements for crimes or there is a lack of valid evidence for the criminal responsibility of the convicted persons. Beside this, State public prosecutor of RM, as a member by function in the Council of public prosecutors has influence on this body for election and dismissal of public prosecutors on all levels.

With the aim to elevate the efficiency and effectiveness in the field against organized crime, as well as to clear all suspicions for the tendentious acts, the most optimal solution is for the State public prosecutor to be elected and dismissed by the Council of public prosecutors, as a competent and independent body, emancipated from the Government. The Council of public prosecutors in RM, in fact, elects all the other public prosecutors. Therefore there is not more serious cause, why the same is not done for the General public prosecutor. This solution is extremely important taking into consideration the fact that lately the Public prosecution has the leading and coordinative role in conducting the pre-investigative procedure, in the inquiry and prosecution during the entire criminal procedure.

III. Independent, efficient and effective judiciary. The judiciary, although it is formally-legal emancipated from the executive authority, in practice still feels the influences of the executive authority on the judiciary, through different non-legal channels and causes (as an example Republic of Macedonia to be taken, with the constitutional amendments of 2005). Therefore it needs to be continued with reinforcement of the independence of the judiciary and elimination of all those elements which contribute to its loose, fragile emancipation from the executive authority. After that, when all the formally-legal points will be terminated and possibilities for applying directly, sophisticated pressures, it will depend entirely on the personal integrity of the judges and the public prosecutors whether they will resist falling under the influence. Because of the direct pressures on the dependent institutions, judges and public prosecutors, it will not be possible to talk about such pressures.

IV. One of the main reasons for organized crime and corruption in the countries of South-East Europe is the huge concentration of political power in the hands of the Government. From here, one of the basic solutions has to be the deconcentration of this enormous political power. Politically responsible Government that is elected in free and democratic elections in the legitimate way, has to be given the leadership of all current economical, social, defensive, ecological, educational, health care and other policies. However, in the

transitional and undeveloped countries the enormous power that the Government achieves through its influence on all the personnel policies in all key positions in the state apparatus and the society, has to be deconcentrated. Moreover, mixed parliamentary bodies for control of executive authority have to be established.

V. Providing qualitative legal frame for complete professionalization of the personnel which act on the problem of detecting, proving and prosecuting criminal offences in the field of organized crime and corruption. This solution brings successful results in the countries of the Western World. However, in the transitional and undeveloped countries, because of the lack of democratic tradition, low level of legal awareness and political culture, the attempts for introduction of "merit" system referring to professionalization of the state and public administration, for example in Republic of Macedonia, has not brought the expected results. That is because when top institutional officials are political elected officials (and that cannot be different in one parliamentary democracy of plural political system), then there are always modules of how to trick the law on behalf of the rationalisation of the needs from the vertical and horizontal redeploying of the personnel. In whatever case, in lack of other more optimal solutions, this one would be fine.

3. Conclusion

According to all that has been elaborated with arguments so far, the most important question is posed: is there a way out for the transitional and undeveloped countries in this state? If there is, which and what are those solutions? In the context of one of the basic cybernetic roles that there is no problem that can not be solved, there certainly is a way out. Upon the basis of the total previous contexts and the principally defined solutions, the way out is in the concrete solutions of one universal, coherent, complementary and consistently developed national strategy against organized crime and corruption. In all these years there has been a lack of general conceptual view, a vision for a coherent, universal and complementary national strategy in the fight against organized crime and corruption. We are witnesses to constant making of partial solutions, which are not enough qualitatively and if they were, we would not have any use for them if they are not in agreement with the systemically-strategic approach for the connection of the different segments with the basic aim of the strategy. The police and the other competent institutions relatively successfully manage to deal with classical crime with the mono-dimensional approach they are using. Taking into consideration the multidimensional nature of organized crime and corruption, fundamental reforms should be simultaneously made in seven crucial sectors of society, in

which about 40 sub-systems would have to be embraced. Of course, we want transitional societies to move straight forward and to hope that we will get full membership of the EU and NATO. Also, we have to pay attention to the methodology for realisation of the one and the same idea, because the different methodological approach in the realisation of one idea in reality changes the same idea. Namely, the new qualitative proposal of the strategy against organized crime and corruption has to cover in a qualitative-radical way the most crucial sectors of society, through a system of inter-dependent and complementary measures founded in the universal and coherent legal system, as opposed to the shallow and palliative solutions.¹⁵ That is the difference among real deep (basal) reforms and the cosmetic, or to say, shallow reforms ("reformation illusionism" or "reforms due to reforms"). For accomplishing successful strategic reforms the most optimal methodological approach is the systemically-strategic approach. According to that, systematically-strategic approach means that:

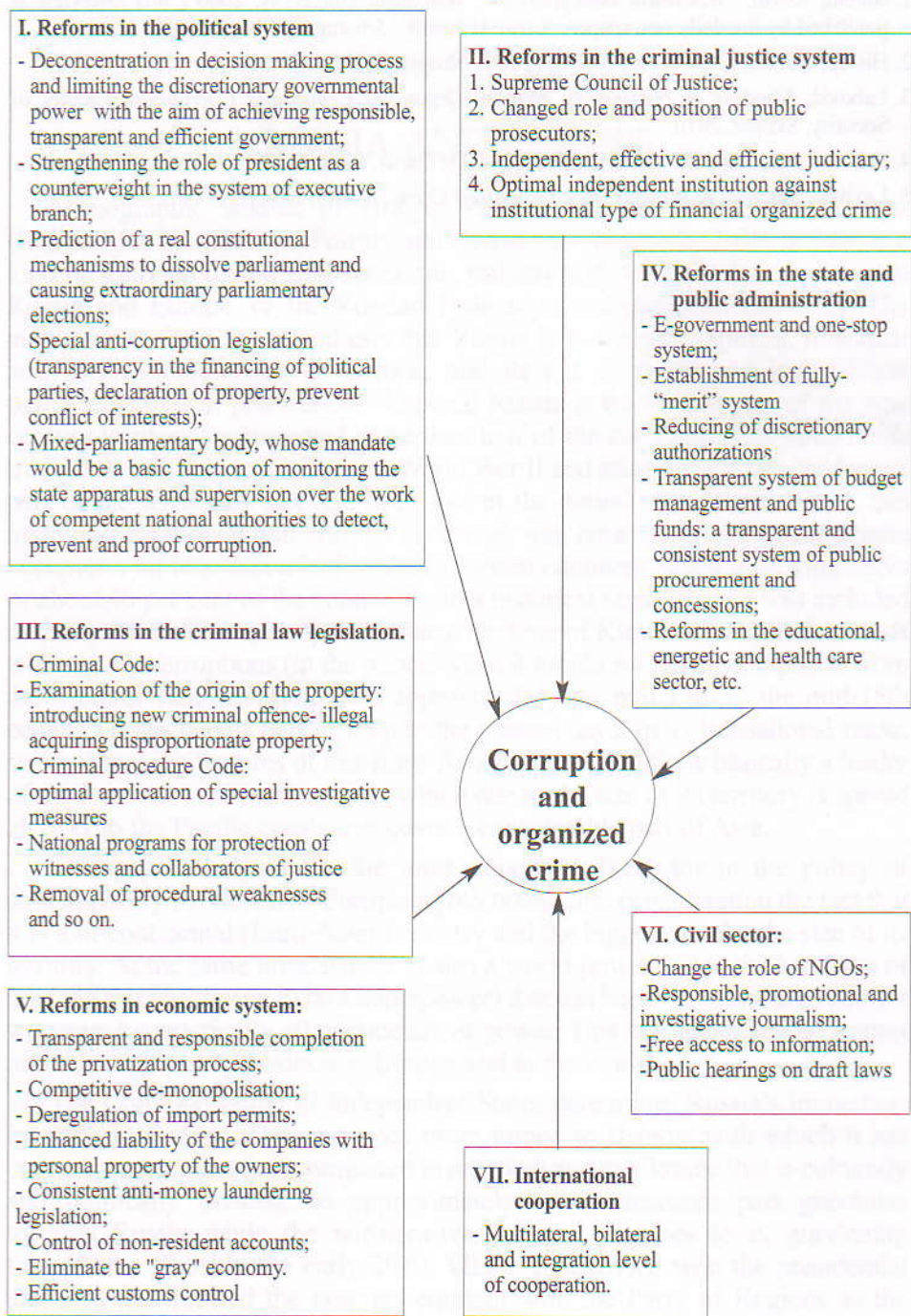
- A) In the frames of the universal social system key sectors (systems) have to be taken into consideration together with about forty sub-systems. Through this approach, cohesion and complementation of the measurements and the solutions pointing to one unique goal have been achieved, avoiding the contradiction of the system. (See the scheme at the end of this part).
- B) Reforms have to be performed relatively simultaneously or with small temporal distance in each of the systems together with their sub-systems. If not like that, for example the reform of the criminal-justice system as is performed now, and the reforms of the political system after five years, failures and non-optimal effects will be present. Mainly because interaction can not be achieved by the complementary measurements and the solutions of different systems in the frames of the unique anti-corruption system. This especially refers to the balanced approach for reforms, not only in all the systems (sectors), but also fields and institutions (sub-systems), which have authorization in prevention and fighting of organized crime and corruption. Reform in only one institution, for example the police, will not mean visible improvement of the conditions in the field of justice and internal affairs. The improvement of the conditions in only one segment may mean greater efficiency but not greater effectiveness regarding the fact that in the process are included more subjects which have to function in a coordinative way.

¹⁵ Miodrag Labović, *op. cit.*, pp. 325-428.

Although there is huge progress in adopting international instruments, and many new laws are adopted, while the existing ones have been changed, there are still important and essential legislations left empty. Because of this if the same are not overcome – every serious fight against organized crime and corruption will not be successful. It is like that only because technically to satisfy the “bench-marks” given by the EU but, it does not systemically and in-depth give meaning to the real needs which come from the specific factors and conditions (for example Macedonia). Also, the mechanical rewriting and in best variant eclectic adopting of different laws, cannot contribute to the country to achieve the standards and the practice of conveying of the implementation laws in the frames of the EU.

In that way it needs to be stressed that neither approach by itself is enough to prevent the organized crime and corruption. Namely, the laws (legal norms), as much as they are universal and synchronised, have limited value, if they are not supported by the political elite with firm and strong will, and if they are not supported by the legal mechanisms which will implement all of that. Many of the unsuccessful anti-corruption campaigns and campaigns against organized crime went downhill not only because of the legal approach but also because of the “exclusive” support of the sterile moral appeals. These isolated and helpless appeals, if they were enough *eo ipso*, without being treated with appropriate programmes, organized crime and corruption would have been a forgotten topic.

Figure 1: Draft – National Strategy against Organized Crime and Corruption



Bibliography

1. Bareth, Kevin, "Wisconsin state journal", Wisconsin University, 2006 (this interview is published by the daily newspaper "Utrinski Vesnik" 5/6 august, Skopje, 2006.
2. Hislop, Robert, *Calm before Storm*, : FIOS, Skopje, 2002.
3. Labović, Miodrag & Nikolovski, Marjan, *Organised Crime and Corruption*, Faculty of Security, Skopje, 2010.
4. Labović, Miodrag, *The Authority Corrupts*, De Gama, Skopje, 2006.
5. Layman, Michael & Potter, Garry, *Organised Crime*, Magor, Skopje, 2009.