

UDC 351.745.7:343.974

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LAW ENFORCEMENT AGENCIES of UKRAINE THAT PERFORM COUNTERACTION TO CRIMES COMMITTED BY ORGANIZED GROUPS AND CRIMINAL ORGANIZATIONS FORMED ON ETHNIC BASIS

The article considers the current state of law enforcement agencies combating crimes committed by organized groups and criminal organizations formed on ethnic basis. Statistical data on crimes detection which are committed by organized crime and criminal organizations formed on ethnic basis of the operational units of the National Police of Ukraine is analyzed. The negative reasons that influenced organizational basis for combating ethnic organized crime, which is a threat to the interests and rights of citizens, society and state are established. The author identifies specific directions that should contribute to the improvement of efficiency of counteraction to crimes committed by organized groups and criminal organizations formed on ethnic basis justifies the need to establish a common international data bank (automated information system «Ethnic crime»).

Keywords: counteraction, law enforcement agencies of Ukraine, organized groups, criminal organizations, ethnic crime, laws and regulations.

Nowadays Ukraine more actively becomes the subject of growing interest of international criminal groups, particularly in the legalization of proceeds from crime, human trafficking, illegal movement of weapons, hazardous materials and narcotics. The number of illegal immigrants is growing and ethnic organized crime is becoming more common [1, p. 65–66].

Currently there appeared many issues concerning combating crimes that are committed by members of certain nationalities or ethnic groups based on their inherent criminal specialization. From numerous media reports, publications and our own observations we can conclude that the level of commission of crimes by representatives of ethnic minorities in our country remains high. These ethnic groups are based on ethnic and clan affinity, accepted traditions and customs, which are characterized by specialization for certain types of crimes. This is partly due to connection with criminal elements in the homeland or by the presence of traditional criminal activity in respect of a particular ethnic group, acquisitive crime, extortion, fraud, arms trafficking, drug trafficking, illegal migration and trafficking, etc.

Combating crimes committed by organized groups and criminal organizations formed on ethnic basis requires special attention and specific approaches, taking into account their national (ethnic) psychological characteristics, therefore this research takes importance both in theoretical and practical plan. Such favorable for organized ethnic crime situation involves a threat to its penetration in almost all areas of public relations, which significantly harm the public interest and the image of Ukraine on international level.

As a general principle, the state of ethnic crime is characterized by a steady increase in the number of crimes committed, including grave and especially grave, activation of their professional activities in various regions of the country, the emergence of such crimes as drug trafficking, terrorism, human trafficking, etc., depending on the level of criminal migration and influence of transnational organized crime [2].

Currently, Ukraine sets among the priorities the work of the National Police combating latent, organized, inter-regional and ethnic crimes [3]. Of course, today a lot of attention is attracted by ethnic crime formation that determines the relevance of the chosen topic.

Theoretical basis of the study constitute scientific works of Ukrainian and foreign scientists who have studied different aspects of the issue of counteraction to ethnic crime. In particular, contribution in the development of this problem was made by the following scientists: I. Anzhyrov, V. Bosenko, H. Hevorhian, H. Zharovska, V. Zvarych, A. Ziukov, O. Leliak, M. Kasianenko, I. Kasaiev, M. Kleimenov, V. Matviichenko, S. Pavlenko, V. Ponomarenkov, E. Rabdanova, V. Remskiy, V. Rubtsov,

O. Smyrnova, I. Stikharnia, Yu. Strelkovska, V. Tiunin, O. Foihel, E. Khehai, R. Chevkhodze, O. Shostka, A. Shchukyn, V. Yusupov and others.

The article aims to identify specific entities that perform counteraction to crimes committed by organized groups and criminal organizations formed on ethnic basis, analyzing national and international legislation which regulate the activities of such entities engaged in performance of counteraction to ethnic crime, as well as development of concrete proposals for optimizing the legislative support of such activities, particularly in combating crimes committed by organized groups and criminal organizations that are formed on ethnic basis.

Subjects of combating crime create a coherent in functional and organizational terms system connected by common goals and management in combating crime. The complexity of this system, on the one hand, is due to the versatility of tasks to ensure safety, prevention, cessation, detection and investigation of crimes, and on the other is the distribution of tasks between entities at various levels, due to the hierarchical structure of the system. This system is a complex social organization, as its constituent homogeneous groups form relatively independent organizational formation, functioning on the basis of identical patterns. Each of these units is a subsystem of a larger system and at the same time consists of its subsystems [4].

According to the researchers, since the crime, including organized ethnic crime, generates a complex causal complex resistance it can be effective only if the development of an appropriate system of integrated economic, social, legal and organizational measures aimed at neutralizing, blocking the displacement of this dangerous phenomenon on the basis of implementation of special law enforcement [5]. The core of this activity shall become a radically new law enforcement structure able to respond quickly to the challenges and threats that are now emerging on the part of organized ethnic crime [6, p. 477].

In a broader meaning, representative bodies, executive authorities, judicial bodies; the full range of enterprises, institutions and organizations that operate in different spheres of social life; associations and individuals take part in counteraction measures. However, the mentioned activity is performed mostly by agencies named or organizations related to process other tasks. Only a

relatively small proportion of subjects who implement the specific goals and objectives in combating crime, endowed with the appropriate rights and obligations of exposure to certain criminogenic factors and therefore they are specially determined to carry out the appropriate information, methodology, resources, and personnel security activities [7].

In the framework of crime counteraction, it is impossible not to mention entities that perform it. Depending on the goals, tasks and functional responsibilities, entities of crime counteraction shall be divided into two groups: a) entities of combating crime acting on social level; b) special entities of combating crime. To special entities of combating crime we can take the following: agencies that are specially established for combating crime (operate under the criminal justice); agencies that perform other functions (operate outside the criminal justice) [8, p. 21].

Content side of the concept «combating crime» has two aspects: criminal legal and criminologist. Criminal legal aspect of law enforcement agencies serves to detect and investigate crime, to identify the perpetrators and bring them to the statutory liability, criminal proceedings and the enforcement of sentences. Criminological aspects of law enforcement and other agencies serves to identify existing determinants of crime eliminate them, for weakening, neutralization and prevent the emergence of new [9, p. 93].

The main activities of law enforcement agencies are the following: ensuring the rule of law, prevention of causes and conditions of commission of socially dangerous acts, preventing their development and liquidation of consequences, combating crime and other criminal offenses.

In accordance with the Law of Ukraine «On state protection of court employees and employees of law enforcement», law enforcement agencies – prosecution bodies, National Police, Security Service, Military Police in the Armed Forces of Ukraine, National Anti-Corruption Bureau of Ukraine, border protection, bodies of revenues and duties, enforcement and penal institutions, pretrial detention facilities, bodies of public financial control, fishery protection, state forest protection and other bodies that carry out law enforcement functions [10].

These state agencies listed in the law belongs to law enforcement in the broad meaningful concept. In the narrow concept, to law enforcement agencies belongs prosecution bodies, National

Police, Security Service, Anti-Corruption Bureau of Ukraine, border protection bodies, bodies of revenues and duties, enforcement and penal institutions, pretrial detention facilities, bodies of public financial control which are combined into one group – the criminal justice authorities. Mentioned bodies performs special role among special subjects of combating crime in general and criminological prevention in particular. Allocation of these bodies in a separate group is caused by the presence of main general primary functions – of combating crime [8, p. 21].

V. Voronov considers that combating crime is an ongoing process within which simultaneously and in parallel way overall social and special actions are performed aimed at neutralizing criminal factors directly to the prevention and detection of crimes aimed at improvement of criminal situation, reduction of physical, moral and material damage caused by crime [11, p. 37].

O. Bandurka and O. Lytvynov consider that combating crime is a special integrated multi-level subject of social control which consist diverse forms of activities relevant entities that interact as a system of diverse activities aimed at finding ways, means, and more effective impact on crime to reduce the intensity of determination crime at all levels, neutralize the action of causes and conditions limiting the number of criminal offenses to socially tolerant level [12, p. 44–45].

R. Veprutskiyi considers that combating crime is understood as objectively existing system of social measures to be implemented by bodies of state executive power, law enforcement agencies and specialized units of the public and individuals applying existing legislation and international law in the fight against crime, practical experience and scientific achievements [13, p. 138].

O. Ignatova reasonably states that "combating crime" is a generic term. He understands it as the system of various activities and complex measures (undertaken by society and the State) aimed to prevent, eliminate, neutralize and limit (weaken) factors determining crime [14, p. 467].

Similar approach has O. Shostko which includes in the content of the term «combating crime» activity aimed at minimization contradictions and factors that generate crime or encourage it to reduce certain types of crimes by avoiding them at different stages of criminal behavior (crime prevention measures), as well as prompt response to crimes that has already been committed [15, p. 31].

In our opinion, combating crime is an ongoing process in the framework of which simultaneously and in parallel way overall social and special actions are performed both transparently and tacitly that are conducted in close cooperation of various government agencies aims to identify and solve crimes. Therefore, combating crime committed by organized groups and criminal organizations formed on ethnic basis requires special consideration, given their national (ethnic) features.

Creating of system of special law enforcement agencies performing combating crimes that are committed by organized groups and criminal organizations formed on ethnic basis because it is socially dangerous phenomenon characterized by specific features, rapid growth and spread, features of counteraction from law enforcement agencies of Ukraine.

In this regard only special units which are authorized to perform investigative operations and using overt, covert staff and freelance workers [16], have strength to carry out counteraction to organized groups and criminal organizations formed on ethnic basis.

Therefore, based on the provisions of Article 5 of the Law of Ukraine «On operational search activities», the legislator has allocated a number of units which are authorized to conduct counteraction to crimes committed by organized groups and criminal organizations formed on ethnic basis.

Authorized operational units of different bodies of Ukraine conduct all necessary operational search activities for prevention, early detection and suppression of crimes, and expose the causes and conditions that facilitate the commission of crimes, offenses prevention exercise, in accordance with its duties. These measures are effective counteraction to organized groups and criminal organizations formed on ethnic basis.

Therefore, directly operational units, which are primarily engaged in countering crimes committed by organized groups and criminal organizations formed on ethnic basis are the following:

– National Police of Ukraine. In the system of National Police of Ukraine, operational and search activities are performed by units of criminal and special police. Criminal police includes the following units: Criminal Investigation Unit, a Division of Homeland Security, Cybercrime Units, Units protecting the economy, Criminal Intelligence Units, Units associated with Human Trafficking, Combating Drug Crimes Units, operational service units, units of

operational and technical measures, units detecting hazardous materials and environmental crimes);

– State Bureau of Investigation – internal security, ensuring the personal safety;

– Security Service of Ukraine – counterintelligence, military counterintelligence, protection of national statehood, special units to combat corruption and organized crime, operational and technical, internal security, operational documentation, fighting terrorism and protecting participants of criminal justice and law enforcement;

– Foreign Intelligence Service of Ukraine – human intelligence, operational-technical, own security;

– The State Border Service of Ukraine – intelligence agency specifically authorized central executive agency for State Border Protection (human intelligence, operational-technical, own security), operational and investigative units under the authorized central executive agency for State Border Protection and its regional bodies, departments of state border protection agencies of border and maritime security, internal security, to ensure their own safety, operational documentation and technical operations;

– Department of Civil Protection – surgical unit providing protection only to ensure the safety of people and objects in respect of which the state security;

– bodies of income and charges - tax police operational units and units dedicated to combating trafficking;

– bodies and penal institutions and detention centers of the State Penal Service of Ukraine;

– intelligence agency of the Defense Ministry of Ukraine - operative, operative-technical, own security;

– National Anti-Corruption Bureau of Ukraine – detectives, operational, technical, internal control [16].

Article 5 of the Law of Ukraine “On the organizational and legal framework to combat organized crime” defined a system of bodies performing counteraction to crimes committed by organized groups and criminal organizations formed on ethnic basis.

In particular, according to this law, the following bodies are referred: a) specially established state bodies to combat organized crime; b) state bodies involved in the fight against organized crime within the performance of their other basic functions [17].

Specially established state bodies to combat organized crime include: a) Coordination Committee for Combating Corruption and

Organized Crime under the President of Ukraine; b) special units to combat corruption and organized crime under the Security Service of Ukraine.

In case of necessity, the Verkhovna Rada of Ukraine on a permanent or temporary basis may establish and others special bodies to combat organized crime.

State bodies, which are involved in the fight against organized crime, include: a) bodies of National Police and Security Service of Ukraine; b) the prosecuting bodies of Ukraine; c) income and charges bodies, bodies of the State Border Service of Ukraine and bodies of state financial control; d) bodies and penal institutions and pretrial detention facilities; e) intelligence agency of the Ministry of Defense of Ukraine; f) Foreign Intelligence Service of Ukraine; g) National Anti-Corruption Bureau of Ukraine [17].

Thus, the «Report on the results of the fight against organized groups and criminal organizations» which is approved by the GPU Order No. 103 as of 23.10.2012 by agreement with the State Statistics of Ukraine, indicates the following law enforcement agencies directly involved in the detection of organized groups and criminal organizations that formed on ethnic basis, namely the Prosecutors Office of Ukraine, National Police, Security Service of Ukraine, the bodies that monitor compliance with tax laws [18].

Therefore, direct bodies, which perform counteraction to crimes committed by organized groups and criminal organizations formed on ethnic basis, are the National Police of Ukraine and the Security Service of Ukraine.

Summing up the above, it should be noted that counteraction to crimes that are committed to organized groups and criminal organizations that are formed on the ethnical basis remains among the most important tasks of operational units of the National Police of Ukraine and Security Service of Ukraine. However, the activities of operational and investigative units concerning identification, detection and investigation of criminal groups still has a number of legal and organizational issues which require continuous improvement. Accordingly to resolve this problem it is necessary to intensify efforts on the coordination and convergence of the national legislation. The existence in states of different legal systems of criminal law which are based on different principles, so that differently rated by the same criminal acts committed by organized groups and criminal organizations formed on ethnic basis. Such

differences in criminal law do not promote the development of cooperation between states to combat this phenomenon. In this regard for effective counteraction to crimes committed by organized groups and criminal organizations formed on ethnic basis, and for the collection and analysis of data on the activities of such groups in Ukraine and in other countries it is advisable to create a common database (automated information system «ethnic crime») to collect and analyze relevant information about the circumstances of crimes, on persons who commit this crime, the number of ethnic origin, on characteristic of criminal groups, especially their leaders, on persons on the wanted list, on people who were arrested and who are serving sentences for crimes committed on the territory of the State concerned.

The proposed system should have interstate status and concentrate information of all law enforcement agencies and special international police agencies (Interpol, Europol etc.). Such system will create some developments to overcome this phenomenon on a global scale for the entities engaged in counteraction to crimes committed by organized groups and criminal organizations formed on ethnic basis – the conditions for international cooperation on countermeasures against ethnic organized crime in general.

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Стаття надійшла до редколегії 24.01.2018

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Правоохоронні органи України, які здійснюють протидію злочинам, що вчиняють організовані групи та злочинні організації, сформовані на етнічній основі

Розглянуто питання сучасного стану протидії правоохоронними органами злочинам, що вчиняють організовані групи та злочинні організації, сформовані на етнічній основі. Проаналізовано статистичні дані щодо виявлення аналізованого виду злочинів оперативними підрозділами Національної поліції України. Встановлено фактори, що негативно позначаються на організаційних засадах протидії етнічній організованій злочинності. Визначено напрями підвищення ефективності протидії зазначеним злочинам. Обґрунтовано необхідність створення міжнародного банку даних – автоматизованої інформаційної системи «Етнічна злочинність».

Ключові слова: протидія, правоохоронні органи України, організовані групи, злочинні організації, етнічна злочинність, нормативно-правові акти.