

**"SECONDARY PUBLIC"**  
**in Europe's emerging democracies:**  
**Social aspects of organised crime**

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The emerging democracies of Central and Eastern Europe face various new forms of crime, some of which have gradually spread without being recognised. The public did not seem to care about them at the outset, as people were engaged in the management of other previously unknown risks. The former social security provided by dictatorship was first replaced by the insecurity of public affairs and then by the insecurity of the private domain.

For a long time, not only the general public but also the specialists of government institutions responsible for public security did not recognise or ignored the links among the seemingly isolated cases. They were busy trying to identify the direct perpetrators of crime (with decreasing efficiency). They did not pay attention to the people in the background, and did not bother to investigate whether the offence is related to complex – perhaps transnational – networks, to the elements of a huge and unknown system.

A contributing factor was that before the political and economic reforms many specialists flatly refused even to discuss *the existence of organised crime in Hungary*. Based on the communist ideology, they insisted that organised crime may not exist in this part of Europe.<sup>1</sup> This approach is demonstrated by studies published in those years. On top of that, it took several years after the political and economic changes until criminology and criminal law started to deal with this issue.<sup>2</sup>

In-depth studies, however, evidence that as dictatorship weakens organised crime becomes increasingly dominant. Following the demise of communist dictatorship in Europe, reduced central control and the rules of democracy provided a fertile breeding ground to crime. Contributing factors included the opening up of borders, the boom in tourism, the emergence of a market economy, the uneven distribution of wealth, and the stringent enforcement of the rule of law in criminal proceedings. As a result, all types of organised crime customary in Western Europe have surfaced and spread in Central and Eastern Europe over the last decade. Hungary functions mainly as a transit country between Asia (and partly Africa) and Western Europe. The most common offences include drug trafficking, smuggling of illegal aliens, illegal trade in weapons and cars. Criminals have made repeated attempts to forge economic and political relations with the representatives of law and order.

As a result, the "secondary public" (that is, a group of politically motivated people in conflict with those in power) established before the economic and political reforms survived the changes with new members, and continues to function exploiting the weaknesses and deficiencies of the primary public (democracy instead of dictatorship). Illegal networks strive

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<sup>1</sup> We know today that in 1979 the special division of police identified 217 offences and arrested 91 people, and the relevant cases had all the features associated with organised crime. Reference: 'Interview with László Tonhauser on Organised Crime and the Activities to Combat Organised Crime', *Belügyi Szemle*, 2/1997, p. 45

<sup>2</sup> Dános, V.: 'Organised Crime', in: Gönczöl - Korinek - Lévai (1996): *Criminology, Crime and Crime Control*, Corvina Budapest, pp. 211-225

to acquire power, or at least an increasing portion of the primary public, via the economy rather than through politics, as they did earlier.

The legitimate authorities attempt to address this challenge. The first step was the establishment of the Service Against Organised Crime under the auspices of the National Police Headquarters in 1990. A new response to the spreading of this type of crime was the setting up of the Central Office for Combating Crime in 1996 with the following organisational units:

- an investigation body specialising in economic crime,
- a body performing open investigations,
- the Organised Crime Department,
- a deployment unit,
- a unit responsible for analysis, evaluation and coordination.

The *public has for long not lent support* to law enforcement agencies in their efforts to combat organised crime and remained indifferent about the manifestations of such crime. A major reason for that was the lack of impact of such crime on their standards or quality of living. On the contrary, the public explicitly supported certain types of organised crime (e.g. black economy, especially black trade), since purchasing goods at a lower price than within ordinary trade it could offset the decline in its standards of living to some extent, at least in the short run. The public did not seem to care much about the people dealing in goods of unknown origin, because the price they offered was just the fraction of that of goods sold via shops. Moreover, they collaborated with offenders when law enforcement agencies (rather reluctantly) attempted to "smoke them out" from frequented downtown areas. Similarly, illegal employment offered financial savings for certain social strata. Pushed by deteriorating financial conditions, people made use of the fact that foreigners speaking hardly any or no Hungarian were willing to work for peanuts for months without a break. In retrospect, it is clear that the number of flats and family houses built over the past ten years would have been much lower without this source of labour. (The construction costs of new houses built for the *nouveaux riches* would have been much higher had illegal workers not been used. Therefore, well-to-do citizens would have had to pay more taxes on their high income.)

The public regarded *conflicts between criminal gangs* (involving mostly foreigners) from the outsider's position for many years, and not without reason. For about five years, innocent people had never become victims to shootings and bomb attempts taking place sometimes in densely populated areas. Hitmen made precise work: only the targeted people were killed or grievously injured, and they all proved to have links to the underworld.

To get a snapshot on the system of organised crime, the following questions need to be answered:

1. Who are the organisers and major players of this type of crime? What about their position in society (in the primary public)?
2. What is the purpose of their activities? In addition to the accumulation of wealth, their evident chief objective, what other motives do they have?
3. What do they actually organise? What is the object of their activities?
4. How do they implement their activities? What methods and opportunities do they utilise to realise their objectives?
5. What is the legal classification of their activities? Which legal facts are realised, which are the legal regulations that provide grounds for prosecution? What cumulative, interrelated

and legally sanctionable offences are committed? For which offences can perpetrators typically be identified and the act itself be proven? Which are the offences for which perpetrators can hardly be identified and the act itself usually cannot be proven?

## 1. Subjects

Based on reliable information<sup>3</sup>, the penetration of our region was indicated by several meetings between Eastern European (mainly Russian and Ukrainian), Italian and Colombian drug trafficking organisations. The venues of these meetings were Warsaw (1991), Berlin, Warsaw and Prague (1992) and Berlin (1993).

According to other sources<sup>4</sup>, *Italian* organisations have reached not only the real estate markets of the former East Germany, but also Central and Eastern Europe where they seek cooperation with the local underworld in the following fields: drug trafficking, weapons trade, antique trade, counterfeiting, trade in nuclear materials.

Based on information supplied by Italian law enforcement agencies, the region's most common organised crime activities are as follows:

1. Privatisation and joint ventures (Hungary)
2. Trade in weapons and nuclear materials (CIS)
3. Tourism, financial institutions and the entertainment industry (Romania)
4. Construction projects and tourism (Bulgaria)
5. A chain of drug processing laboratories (Poland)
6. Prostitution and money laundering (Slovakia and the Czech Republic)
7. Black trade (via Slovenia and Albania during the Balkan War).
8. To prevent conflicts of interest, Western organised crime groups concluded an agreement with major Eastern European organisations on the distribution of markets in 1992 in Prague.

Participants come from two major classes:

1. Parties active in the private sector (domestic and foreign private and legal persons). This class includes people, groups and companies involved in organised crime on an ad-hoc, case by case basis, and also those working as part of a network in an organised manner. These parties perform organisation and implementation duties at the various levels of organised crime.
2. Public office holders involved in decision making or decision support processes who, via their corruptibility, provide administrative support to the launch and legalisation of illegal activities. In an extreme case, entire institutions or bodies with a national scope may assume a reversed role: instead of detecting organised crime efforts and passing legal regulations to this effect, they strive to prevent the introduction of such rules and obstruct the enforcement of existing regulations. These public institutions and their employees provide administrative support to the local establishment and consolidation of organised crime. Consequently, they are the supporters of organised crime.

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<sup>3</sup> Póczik, Sz.: 'International Organised Crime in the Past and Today', *Studies in Criminology and Criminalistics*, Volume 34, 1997, pp. 65-95, and the literature referenced therein

<sup>4</sup> Póczik, Sz.: 'International Organised Crime in the Past and Today', *Studies in Criminology and Criminalistics*, Volume 34, 1997, pp. 65-95, and the literature referenced therein

Due to its scope and international impact, *organised crime in Russia* would deserve a separate survey. This study, however, does not intend to go into minor details. Some pieces of related information provided by competent specialists<sup>5</sup>:

1. Unlike in Western countries, organised crime in Russia did not approach those in power and at public institutions through a bottom-up process. On the contrary: government officials themselves sought contact with the underworld.
2. Unlike in other countries, it is not economy that rules politics. Politics transformed the economy along the requirements of crime.
3. The cradle of organised crime interweaving the entire economy today was the shadow economy of the seventies. It was the period when ties were forged between major economic criminals and civil servants at various levels.
4. In the newly privatised economy, the first victims of perestroika were retail traders. The organised underworld demanded protection money from them in return for continued operation. The government turned a blind eye to this issue, and did not protect business entities against criminal interference.
5. Criminals purchased for peanuts compensation coupons distributed in the restitution process. This way, they acquired a substantial share in privatised economy.
6. The underworld transferred a material part of its capital abroad. Specialists put this amount to USD 180-200 bn in the 1990 to 1995 period. The Russian underworld invested this capital in Western business life.
7. Despite legal restrictions, leading Russian and Ukrainian politicians acquired significant business shares in profitable privatised ventures. (Former Russian Defence Minister Pavel Grachev, for example, is a founding partner of Aviakon Airlines.)
8. Russian organised criminal groups supported by politicians control major companies such as Rosneft, Lukoil and Gazprom.
9. A survey completed by the Washington-based Jamestown Foundation puts the ratio of Russian banks under criminal control to 95 percent. The Mafia controls at least 40 thousand business entities in Russia including 550 banks, 47 bourses, 1500 public companies and the vast majority of fairs and markets.
10. Based on calculations published by the Russian Academy, 35 percent of total capital is under the control of criminals in Russia, and the underworld supervises 80 percent of private enterprises.
11. Criminal organisations "delegated" 20 percent of the members of Duma, Russia's legislative assembly.
12. Many of the best agents of the former Soviet intelligence agency, KGB, support the about 30 criminal syndicates currently active in the United States. They even penetrated the information system of IT development.
13. The Russian Mafia plays a key role in 'weapons for drugs' barter deals especially in Latin America.

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<sup>5</sup> cf.: Stümper, A.: Kriminelle Gefahren aus dem Osten. Das Phänomen der sogenannten Russen-Mafia. Kriminalistik 3/98., 191-194. pp.; Krause, G.: Perspektiven der Internationalen OK-Bekämpfung. Zugleich eine Art Bilanz über das Breit angelegte Vorhaben. Kriminalistik 1/98. 12-16. pp.; Sieber, U.: Internationale Organisierte Kriminalität. Eine Bestandaufnahme. Kriminalistik 2/98. 97-102. pp.; Lammich, S.: Organisierte Kriminalität in Rußland. Reaktionen des russischen Gesetzgebers auf die aktuelle Kriminalitätsentwicklung. Kriminalistik 12/97. 783-788. pp.; Keidel, L.: Menschenhandel als Phänomen Organisierter Kriminalität. Erscheinungsformen des weltweiten Handels mit der Ware Frau. Kriminalistik 5/98. 321-325. pp.; Wie Maffia-Bosse Europa aufteilen. Kriminalistik 5/98. 360. p.; Gilinskij, J.: Die organisierte Kriminalität: Die russische Situation und Sichtweite. In: Edelbacher, M. (Hrsg.): Organisierte Kriminalität in Europa, Linde Verlag Wien 1998. 225-241. pp.

14. They are willing to cooperate with foreign organised criminal groups anywhere in the world, but purely Russian groups also keep emerging. (In organised crime, the ratio of foreign perpetrators is always higher than average all over the world. In Germany, for instance, 62 percent of the identified perpetrators of such offences came from a foreign country.)
15. Mafia groups frequent red-light districts everywhere in the world. Consequently, the best way to collect information on this type of crime is to penetrate and get integrated into this environment. Organised criminals tend to follow the activities of prostitutes delivered by human trafficking.
16. Russian criminals realised at an early stage: the globalisation of legal economy facilitates also the globalisation of criminal economy.

## 2. Objectives

The objectives of organised crime vary according to local opportunities. The common objective is to acquire economic power and gain control over a market as wide and as important for the government's functioning as possible. Where opportunities are limited, criminals confine their activities to the acquisition and retention of monopoly control over certain "traditional" businesses (such as drug trafficking and sex trade). In countries and regions with higher opportunities, organised crime gets integrated into the government structure, and, if possible, assumes a decisive role in a wide array of businesses or acquires full control over the economy. Both versions have ample manifestations in various regions worldwide.

If criminal groups reach this second stage and invest their laundered money within the legal economy, their activities can no longer be attacked on ethical grounds, certain specialists claim. Some underlying factors, however, should by no means be ignored:

1. The prime objective of organised crime is to accumulate wealth. This wealth provides funds for the continued functioning of organised crime. The wealth collected can provide financial resources for bribing officials, purchasing services and equipment necessary for criminal activities. This crime-generating wealth, however, is also an essential precondition to integration into politics and the economy.<sup>6</sup>
2. To put it in other words: criminals aim to gain a share from the profit of a legal or illegal monopoly or oligopoly, usually disproportionate to the investment and risk involved, that is, they are willing to undertake extra legal risk for extra profit.<sup>7</sup>

*The major risk implied by organised crime aspiring for legal profit<sup>8</sup> is that it is capable of accumulating resources providing access to important positions in the legal society. The major source of risk is not that stolen or illegally obtained money is invested in the legal economy or is taken to the stock exchange. The gist of the problem is not that somebody launches job creating investment projects using money obtained from drug trafficking. It is not a problem if the countervalue of drugs or sex services enters the legal economy. On the*

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<sup>6</sup> Borai, Á.: 'Concept for Measures Related to Penal Regulations to Improve the Efficiency of Combating Organised Crime', Part II, *Főiskolai Figyelő*, 2/1996, pp. 48-67

<sup>7</sup> Póczik, Sz.: 'International Organised Crime in the Past and Today', *Studies in Criminology and Criminalistics*, Volume 34, 1997, pp. 65-95, and the literature referenced therein

<sup>8</sup> cf.: Szikinger, I.: 'Maverick Thoughts on Combating Organised Crime', *Belügyi Szemle*, 7-8/1997, pp. 38-44

contrary, it marks favourable cash movement. *The problem is* that the money was stolen or illegally obtained. *In ethical terms*, the major problem is that the government provides economic benefits to certain parties and generates substantial revenues for itself from the privatisation of assets that were acquired mostly in the admittedly unlawful nationalisation process. Consequently<sup>9</sup>, it may not be evident why it is more useful for the society to keep the current holders of economic and social power in position rather than channel some power to one-time criminals wishing to use their funds for legal profit-making.

At the same time, it is worth considering the following argumentation:<sup>10</sup> illegally obtained wealth can be legitimised either by investing it in the legal economy or by transferring it to a third party involved in money laundering, and if this process is left intact, the financial power facilitating the continuity and efficiency of organised crime gets consolidated.

### 3. Objects

The chapter to follow will review the major spheres of interest of organised crime. It will identify the needs satisfied by organised crime, and the institutions created by organised crime. This chapter will focus on the situation in Hungary and in Central and Eastern Europe.

In European countries recently released from dictatorship, organised crime strives to acquire control over the economy to the highest degree possible. It attempts to *gain full control over or at least increase its share in markets* (both in the direct and indirect sense of the word). *Privatisation and restitution* largely supported this ambition, since under this process valuable assets changed hands without public and also without government supervision. Very few sources offer reliable information on who and under what conditions gained control over former state assets in the decade of privatisation. The conditions under which the current owners of entertainment facilities, minor financial institutions and various markets (including commercial chains formerly managed by Communist countries) obtained their assets are not clear either. Similarly, there is no reliable information on the parties holding a controlling volume of securities traded at the stock exchange, and on the way private individuals with substantial stock exchange investment obtained their wealth.

Until this picture gets clarified, the suspicion that all former Communist countries have the limited version of the Russian practice will survive.

The origin of wealth needs to be clarified also because the fast spreading and increasing economic clout of organised crime was not really surprising<sup>11</sup>. Upon the launch of privatisation there were indications that this process would trigger large-scale corruption. This projection has turned to certainty in the meantime. Over the past few years some dozens of people accumulated a wealth of several hundreds of million HUF in an unlawful way. The frequency of mafia-type executions with guns and explosives has largely increased since 1996, mainly because the *nouveaux riches* did not expect that their bodyguards will become unmanageable at some point. Getting familiar with the Hungarian legal situation, bodyguards wanted to acquire wealth, and many of them succeeded. Nevertheless, the Hungarian

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<sup>9</sup> Szikinger, I.: 'Maverick Thoughts on Combating Organised Crime', *Belügyi Szemle*, 7-8/1997, pp. 38-44

<sup>10</sup> Borai, Á.: 'Concept for Measures Related to Penal Regulations to Improve the Efficiency of Combating Organised Crime', Part II, *Főiskolai Figyelő*, 2/1996, pp. 48-67

<sup>11</sup> 'Interview with László Tonhauser on Organised Crime and the Activities to Combat Organised Crime', *Belügyi Szemle*, 2/1997, pp. 45-47

underworld (unwilling to give up the market) is currently a step behind foreign organised criminals.

*Major business areas of organised crime:*<sup>12</sup>

1. Drug crime: since there is no sufficient solvent demand, Hungary is made attractive mainly by its transit nature. Although since the end of the Balkan War most routes have returned to the former Yugoslavian republics, the southeast-northwest axis remained. (Via this route, drugs are delivered to Western Europe, and high-value cars are transferred through Eastern Europe to Asia and Africa.)
2. Smuggling of illegal aliens: Romanian criminal groups collect people of Far Eastern and Asian origin and transport them via the above mentioned route to the desired destination.
3. Prostitution: it is managed by organised groups using mainly entertainment facilities for coverage. Therefore, tourism plays an important role in crime not only because criminals can move freely together with the flow of ordinary tourists, but also because tourist spots are also centres of organised crime. Entertainment facilities are suitable for money laundering.
4. Organised car theft and smuggling have soared. Car theft has a direct impact on public safety. It is significant not only in Hungary itself, but the country is also part of the delivery route of cars stolen in Italy and in Northern and Western Europe.
5. The law on gambling increased the number of business entities involved in the organisation of legal gambling, but it failed to reduce the occurrence of illegal gambling. Both types of gambling have links to organised crime, since they are *used for money laundering*.
6. Counterfeiting based on advanced printing technology has gained ground since 1992. Counterfeiters release all types of currency.
7. The trade and smuggling of weapons are not significant. Guns converted from inactivated guns have entered the illegal weapon market.
8. Trade in nuclear, hazardous and strategic materials has been driven back.
9. Protection money is collected mainly by Hungarian criminals from Hungarian victims. The occurrence of blackmail related to debt collection has increased. Blackmail became a tool for competition in the economy and in the organised underworld.
10. Economic crime is linked to organised crime at multiple points. Its major areas include: causing damage to public property and revenues, privatisation, illegal financial activities, violations of copyright and adjacent rights.

*Some business areas are subject to special risk.* In the late 90s, the most common manifestations of organised crime have been as follows<sup>13</sup>:

- collection of protection money from the owners of retail outlets, catering and entertainment facilities,
- debt collection,
- prostitution managed by organised transnational networks for the trafficking of women,
- trade in crude oil products,
- stealing of high-value cars.

<sup>12</sup> cf.: Borai, Á.: 'Concept for Measures Related to Penal Regulations to Improve the Efficiency of Combating Organised Crime', Part I, *Főiskolai Figyelő*, 1/1996, pp. 53-62

<sup>13</sup> cf.: Bócz, E.: 'The role of Prosecutors in Combating Organised Crime in Hungary', *Ügyészek Lapja*, 4/1997, pp. 17-25

#### 4. Methods

To understand organised crime, it is necessary to get acquainted with the methods used for disguising criminal activities as legal business.

The organisations themselves fall in two major classes:<sup>14</sup>

1. *Class one*: organisations illegal from the outset, established for criminal purposes. These entities are organisations from a functional, sociological and socio-psychological perspective, but from a legal viewpoint (in terms of public law, civil law and business law) they do not exist.
2. *Class two*: organisations with a legal entity established for a lawful purpose and under a formally legal procedure that generate their profits partially or fully from criminal activities.

Both types of organisations require the involvement of *specialist criminals*, that is, document forgers and security guards. These "free lance" contributors are also part of the network.

*Their methods* offer a unique combination of corruption and intimidation<sup>15</sup> in order to obtain extra profit in an illegal manner.

Organised crime strategies capitalise mainly on the organisational weaknesses of public administration and the moral deficiencies of people:<sup>16</sup>

1. Deficiencies exist and keep emerging in financial regulations and financial operations (outdated rules, gaps in law). It applies especially to oil transactions where criminogenic factors inherent in financial underregulation offer a breeding ground to criminal activities.
2. In the period between 1990 and 1994 when criminal organisations were established and the opportunity to obtain information by getting integrated into them was still open, the Hungarian police suspended its related activities.
3. Decision-makers fail to pass firm resolutions and take efficient measures even if illegal profit making is already widely discussed by the public (e.g. the failure to monitor the difference in colour between diesel oil and heating oil).
4. High-ranking officials in public administration have earned high profits either by deliberately cooperating with criminals, or without the intention to cooperate but under criminal pressure. The general public considers these people skilful businessmen utilising untapped market opportunities. They have the image of smart people who swiftly responded to the new economic setup.

Some additional factors to consider:<sup>17</sup>

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<sup>14</sup> Bócz, E.: 'Confessions of a Public Prosecutor ... Prosecution Experience Related to Combating Organised Crime in Hungary', *Belügyi Szemle*, 7-8/1997, pp. 11-17

<sup>15</sup> Póczik, Sz.: 'International Organised Crime in the Past and Today', *Studies in Criminology and Criminalistics*, Volume 34, 1997, pp. 65-95, and the literature referenced therein

<sup>16</sup> Bócz, E.: 'Confessions of a Public Prosecutor ... Prosecution Experience Related to Combating Organised Crime in Hungary', *Belügyi Szemle*, 7-8/1997, pp. 11-17; and Bócz, E.: 'The role of Prosecutors in Combating Organised Crime in Hungary', *Ügyészek Lapja*, 4/1997, pp. 17-25.

<sup>17</sup> Póczik, Sz.: 'International Organised Crime in the Past and Today', *Studies in Criminology and Criminalistics*, Volume 34, 1997, pp. 65-95, and the literature referenced therein



1. Internal reasons include an unstable, disorganised, formally and informally unregulated social environment, suddenly emerging social changes, war or civil war causing large-scale redistribution in wealth.
2. Socially hostile and/or inefficient administration triggers joint and organised defence mechanisms on the side of the public. This creates not only a secondary public, but also a secondary information system and a secondary administration.
3. The internal instability of certain countries or regions may have an external destabilising impact on other communities.
4. Even in fairly stable societies, organised crime finds the needs uncovered or uncoverable by lawful services.
5. Segregated minorities are subject to especially high temptation, therefore, they are exposed to a high risk of getting involved in organised crime.

The *lack of appropriate crime prosecution knowledge* marks an additional problem. The major challenges in this field are as follows:

1. Economic crime is disguised as a lawful business activity. Consequently, those involved in investigations must clearly understand business operations and the ways and methods of abuse.<sup>18</sup>
2. Due to the local nature of the information available, law enforcement agencies may not be able to recognise the link between the offence investigated and organised crime. In other cases, it is the self-defence mechanism of organised crime to reduce the efficiency of procedures that makes the investigation fail and leaves the offence unproved.
3. This trend is supported by the fact that the victims of most offences and many legal representatives also belong to the criminal community. These subcultures provide the wealthiest strata of society.
4. Unlike in earlier decades, in the 1990s it has become increasingly difficult to tell perpetrators from victims. Potential perpetrators and victims attempt to retaliate injuries within their own community, with no resort to the "risky" means of lawful justice administration.<sup>19</sup>

As a result of the ineffectiveness and failure of law enforcement agencies in 1990s, *the international examples of criminal legislation sanctioning organised crime were based on assumptions about the existence of organised crime that relied mainly on criminological experience and only partly on actual sentences.*

## **5. Legal classification and intervention under criminal law**

Subsequent to the political and economic reforms, the public failed to demonstrate any support for efforts against organised crime. A decade later we know: if a government wants to enjoy the support of the entire society, it must demonstrate an efficient, firm, and consistent strategy against organised crime. The shift in public attitude took place when the fight among criminal gangs reached such proportions that even innocent people had to face the chance of falling victim to it. Hitmen no longer paid attention to the environment. They were driven by

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<sup>18</sup> Bócz, E.: 'Confessions of a Public Prosecutor ... Prosecution Experience Related to Combating Organised Crime in Hungary', *Belügyi Szemle*, 7-8/1997, pp. 11-17

<sup>19</sup> It is highlighted by Ákos Borai; see Borai, Á.: 'Concept for Measures Related to Penal Regulations to Improve the Efficiency of Combating Organised Crime', Part I, *Főiskolai Figyelő*, 1/1996, pp. 53-62

a single aim: to kill the targeted person by any means. Specialists, however, warn against hasty measures – at least in theory. (In practice, this type of crime is not likely to be eliminated in the near future.) Based on studies of some American specialists, the immediate withdrawal of black money would cause the economy of California collapse in the space of a few days, since 75 percent of the bank notes circulated in Los Angeles carry cocaine residues.<sup>20</sup> It is interesting to imagine what would happen to the former Soviet republics or to Russia, a country with economic links to all parts of the worlds, if banks under mafia control or companies supervised by organised criminals were suddenly closed down.

In Hungary, organised crime is not a legal, but a criminalistically interpreted criminological phenomenon. The reason for this is that the concept "criminal organisation" is *not appropriately regulated under substantive criminal law*. Therefore, there is no firm legal foundation as to what kind of facts need to be identified and evidenced in court to associate an offence with organised crime in the judge's reasoning.<sup>21</sup> The best points of orientation are criminal association and criminal organisation.

Pursuant to subsection (1) of Section 137 of the Criminal Code, a *criminal association* is established if two or more persons commit crime in an organised manner or agree to do so. This definition covers also the criminological concept of a criminal organisation. The same legal provision defines *criminal organisation* as a criminal association established for the regular perpetration of crime, based on a division of labour, aiming to generate regular profit.

The effective law mentions the concept "criminal organisation" 22 times, mostly as an aggravating circumstance for the person who committed crime using this method.

The effective Criminal Code includes 36 offences where the following terms are mentioned: organised perpetration, perpetration in a criminal association, joint perpetration and perpetration for profit-making purposes. (One of the 36 examples, Section 263/C of the Criminal Code, sanctions the establishment of the organisation, whereas the rest of provisions apply to concrete offences.) The offences mentioned are as follows:

1. Section 174/B, Violence against a minority group
2. Section 175/A, Kidnapping
3. Section 203, Changing of family status
4. Section 205, Promotion of prostitution
5. Section 207, Pandering
6. Section 216/B, Abuse of cultural assets
7. Section 218, Smuggling of illegal aliens
8. Section 229, Violence against an official person
9. Sections 250 to 255, Bribery
10. Section 256, Abuse of influence
11. Section 259, Causing public hazard
12. Section 263, Misuse of explosives or blasting agents
13. Section 263/A, Misuse of fire arms or ammunition
14. Section 263/B, Arms smuggling

<sup>20</sup> Póczik, Sz.: 'International Organised Crime in the Past and Today', *Studies in Criminology and Criminalistics*, Volume 34, 1997, pp. 65-95, and the literature referenced therein

<sup>21</sup> Bócz, E.: 'The role of Prosecutors in Combating Organised Crime in Hungary', *Ügyészek Lapja*, 4/1997, pp. 17-25; The government decree aiming to coordinate efforts to combat organised crime was published upon the completion of this study.

15. Section 263/C, Establishment of a criminal organisation
16. Section 264, Misuse of radioactive substances
17. Section 264/A, Misuse of a nuclear facility
18. Sections 274 to 275, Forgery of official documents
19. Section 277/A, Forgery of personal identification code
20. Section 280, Damaging of the environment
21. Section 281, Damaging of nature
22. Section 282, Misuse of narcotic drugs
23. Section 303, Money laundering
24. Section 304, Counterfeiting of money
25. Section 307, Counterfeiting of stamps
26. Section 309, Infringement of foreign exchange management
27. Section 312, Smuggling and receiving of smuggled goods
28. Section 313/C, Misuse of bank cards
29. Section 316, Theft
30. Section 317, Embezzlement
31. Section 318, Fraud
32. Section 321, Robbery
33. Section 322, Robbery through inebriation or intimidation
34. Section 323, Blackmailing
35. Section 326, Receiving of stolen goods
36. Section 329/A, Violation of copyright and adjacent rights

The matrix to follow shows typically interrelated offences with the above outlined features. (It does not necessarily mean a cumulation of crime. These offences mutually give rise to each other, either because of a common perpetrator or because of the most common sites of perpetration.)

### OFFENCES INVOLVING ORGANISED CRIME

(Based on Criminal Code sections: perpetration for profit-making purposes, organised or joint perpetration, perpetration in a criminal association)

	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.	22.	23.
1.		X	X	X	X		X		X	X					X			X	X			X	X
2.			X	X	X		X		X	X					X			X	X				X
3.				X	X		X		X	X					X			X	X				X
4.					X		X		X	X					X			X	X			X	X
5.						X		X	X						X			X	X			X	X
6.								X	X						X			X					
7.							X	X	X						X			X	X				X
8.											X	X	X							X	X	X	
9.									X				X					X	X	X	X	X	X
10.																		X	X	X	X		X
11.											X	X				X	X			X	X		
12.												X	X	X									
13.													X	X									X
14.														X				X				X	X
15.															X	X		X	X	X	X	X	X
16.																X		X					X
17.																	X						
18.																		X	X	X	X	X	X
19.																			X				
20.																				X			
21.																					X		
22.																						X	
23.																							X
	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.	22.	23.

	24.	25.	26.	27.	28.	29.	30.	31.	32.	33.	34.	35.	36.
1.										X	X		
2.										X		X	
3.													
4.										X	X		
5.										X	X		
6.				X		X			X			X	X
7.													
8.													
9.	X	X	X	X	X							X	X
10.													
11.													
12.				X		X							
13.				X								X	
14.				X								X	
15.	X	X		X	X	X	X	X	X	X	X	X	X
16.				X		X						X	
17.													
18.	X	X	X	X	X		X	X			X	X	X
19.					X								
20.				X									
21.				X									
22.				X									
23.	X	X	X	X	X	X							
24.			X		X						X		
25.			X		X								
26.				X									
27.												X	
28.						X		X		X			
29.													
30.							X	X			X		
31.											X	X	
32.												X	
33.													
34.													
35.													
36.													

The matrix shows that some offences are very frequently committed in association with other offences (e.g. bribery, trafficking in influence, forgery of official documents, and money laundering). All these acts belong to the domain of public administration.

In light of this, the *protection of the lawfulness of public affairs* enjoys top priority in halting the expansion of organised crime. It is a false statement that the government and its institutions do not have enough powers to influence public affairs because of the dominance of the economy. If the underworld attempting to acquire control over the primary public was not supported by public institutions and office-holders to the extent it is today, efforts against organised crime would be more efficient. Consequently, it is equally important to halt the spreading of organised crime on the one hand, and to restore the lawfulness of public affairs on the other.

It is an open issue how to handle "national institutions" operated by organised crime using laundered money. Should companies and banks under criminal control (e.g. Russian organised criminals) be avoided in business<sup>22</sup>? If yes, how? Is it acceptable that the Mafia acquires a significant share in national economies?

Would it be naive to answer NO to the above question? It would mean that every country eagerly combats its own "national" organised crime, and, at the same time, accepts that the organised criminals of other countries penetrate its economy unhindered.

The major directions of prevention are as follows:

- bottom-up: acquisition of control over prostitution, related human trafficking, smuggling and drug trade in order to identify the networks involved and to reduce the occurrence of such offences;
- top-down: identification of the source of capital of and networks used by businessmen who acquired their wealth suddenly and without any known antecedents, and explore the networks utilised by Hungarian companies, joint ventures, and foreign companies entering Hungary without any previous business record in order to identify potential interfaces to already known criminal groups,
- increase of the control over the activities of public institutions involved in licensing procedures related to the operation, naturalisation and expansion of business enterprises (including the financial conditions of office-holders and their direct environment) in order to identify and evidence large-scale corruption.

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<sup>22</sup> This issue becomes relevant if we accept the assumption that 60 to 70 percent of Russian banks and companies are controlled by the Russian Mafia.