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Criminal community as a manifestation of organised crime: A comparative legal analysis

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Abstract

The issue of combating organised crime is gaining increased attention in the context of developing comprehensive strategies for combating and preventing organised crime after the establishment of the Department of Strategic Investigations in Ukraine and its powers to bring criminal authorities to justice. The study aims to conduct a comparative study of the criminal community, in particular, to highlight the content and essence of the phenomenon, and to identify the shortcomings of the current legislation which does not provide for this form of complicity. The following methods were used in the study: systemic method – for characterising a criminal association as a type of organised crime; formal and dogmatic method – for analysing legal structures; comparative legal method – for comparing the features of a criminal association as a type of national organised crime in Ukraine and other states. The main reasons for the formation of criminal communities, their strategies, and tactics, as well as their impact on social and economic processes in society were investigated. The methods of counteracting this phenomenon at various levels, including legal, police and social, were analysed. The importance of developing an effective system of counteracting criminal communities to ensure public safety and maintain law and order was emphasised. The structure and composition of criminal communities were characterised. The strategy and tactics used by criminal communities to achieve their goals, including the organisational structure, communication channels and division of responsibilities, were studied. The interaction of criminal communities with other components of organised crime, such as transnational criminal networks, corruption, etc. was investigated. Strategies and measures to counteract and stop the activities of criminal communities were considered. The conclusions of the study can serve as a basis for developing strategies and policies in the field of combating organised crime and improving the level of security in society

Keywords:

complicity; criminal organisation; organised group; criminal influence; criminal liability; criminal offence

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Introduction

The risk of disruption of law and order through the actions of organised crime, which poses a serious threat to the stability of the entire society, increases in a full-scale invasion situation. Particular attention should be devoted to the phenomenon of a “criminal community” as a manifestation of a high level of organisation and coordination in the criminal environment. A criminal community may include various criminal elements working together to achieve their interests and goals, which threatens the fundamental principles and norms of the social order. Finding and implementing measures to uncover the links between criminal elements, as well as taking preventive measures to reduce their impact on society, are key aspects of managing this complex problem.

One of the tools for combating organised crime that has been systematically studied by Ukrainian scholars for a long time. B. Golovkin & K. Marysyuk (2019) and V.S. Batyrgareieva *et al.* (2019) note that foreign experience in combating organised crime in the financial system includes the creation of special law enforcement agencies, the adoption of strategic priorities and the use of innovative methods, and the use of artificial intelligence technologies to analyse large amounts of data is important. Y. Zabyelina & N. Kalczynski (2020) identified measures that can help reduce illegal amber mining and trade. The researchers recommend using modern technologies such as drones and satellite monitoring systems to identify mining sites, as well as establishing an amber labelling system that would allow tracking its origin and legality. L.G. Androsovich (2021) notes that to counter organised crime in the financial sector, it is important to develop effective legal mechanisms, improve monitoring and control systems, strengthen international cooperation, and ensure a high level of transparency and accountability in the financial sector. It is also necessary to improve cybersecurity and protection against fraud and cybercrime.

Researchers note that countering organised criminal communities that use cybercrime to achieve their goals requires a comprehensive approach that combines cyber defence and law enforcement (Logen *et al.*, 2024). Members of criminal networks use modern technologies to commit criminal offences, and this poses a serious threat to society and law enforcement. For example, fraud, the use of cryptocurrencies (Hegadiet *al.*, 2024), drug trafficking (Vozniuk, 2021), etc. However, some members of criminal communities continue to promote criminal traditions and customs that have been developed over the years since the Soviet era. S. Romashkin *et al.* (2020) point out that modern representatives of transnational crime, including those in the status of “thief in law”, are trying to succeed in politics and governance. In the course of the struggle

for the right to control profitable sectors of the economy and territory, the criminal environment is organised, and the state apparatus is involved in its activities.

Between 2018 and 2023, the position of representatives of criminal communities in Ukraine has significantly strengthened due to the high level of corruption in the country (Vasylevych *et al.*, 2021). Scholars studying this topic express different points of view and opinions aimed at understanding and solving problems related to criminal communities. For instance, A.A. Vozniuk (2021) identifies positive features of the criminal community as a new form of complicity and points out legal aspects and criminal liability. The scientist notes that it is important to define the norms relating to criminal associations and improve legislation to address their challenges. V.G. Sevruk (2022) emphasises the importance of international cooperation and information exchange to counter transnational criminal networks. In particular, he focuses on the development of standards and mechanisms for cooperation between countries. S.O. Pavlenko (2022) emphasises the importance of developing social programmes and preventive measures to prevent young people from joining criminal networks.

Importantly, a comparative legal analysis of criminal communities is of great importance in the current context of globalisation and growing transnational crime, and it is essential for the development of effective strategies and international agreements in this area. The study aims to reveal the content and essence of the phenomenon of criminal associations, to identify their shortcomings, and to identify proposals for improving our legislation.

Materials and Methods

The materials and methods used for the study of “Criminal community as a manifestation of organised crime” include a wide range of tools and approaches to ensure the objectivity and scientific validity of the study. To achieve the research objectives, the following scientific methods were used: systematic – in the course of a comprehensive study of the criminal law characteristics of a criminal community as a type of organised crime. Application of a systemic approach to study the interrelationships and impact of criminal communities on various aspects of society; formal and dogmatic approach to analyse the legal constructions of criminal offences under Articles 255, 255-1, 255-2, 255-3, 256, 257 of the Criminal Code of Ukraine¹; comparative legal – to compare the characteristics of a criminal community as a type of national organised crime in Ukraine and in other countries; statistical – to use statistical methods to process and analyse numerical data on crime and the activities of criminal communities; analysis of court

¹ Criminal Code of Ukraine. (2001, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

decisions – to study court decisions related to criminal communities to determine the practical application of legislation and the need for its improvement.

The following materials were used in writing this study: legal acts – the texts of existing legislative acts and regulatory documents of different countries regulating the issue of criminal communities were analysed; statistical data – statistical reports and data on crime, including information on criminal communities in different countries, including the Statistical Data of the Prosecutor General's Office of Ukraine "On the Results of Combating Organised Groups and Criminal Organisations" were analysed; international agreements – international agreements and conventions aimed at combating organised crime were reviewed to determine the degree of cooperation between countries; human rights reports and assessments – materials from human rights organisations containing information on human rights violations and activities of criminal communities were used; expert opinions – expert opinions from specialists in the field of law, forensics and operational and investigative activities were reviewed to obtain personal opinions; media resources – information posted on information websites about criminal communities and their interaction with law enforcement agencies was studied. These materials and methods were used comprehensively to produce a sound study that has the potential to contribute to the understanding and improvement of the fight against organised crime.

Results and Discussion

Organised crime is defined as the activities of organised groups or structures that specialise in the coordinated commission of serious crime for profit or influence (Sevruk, 2022). This can include various types of crime, such as drug trafficking, smuggling, fraud, murder, kidnapping, and others (Golovkin, 2020; Budik, 2022; Rawashdeh *et al.*, 2024). Organised crime poses a serious challenge to law enforcement and society and necessitates cooperation between countries and agencies to combat this phenomenon (Lutsenko, 2020). The establishment of political and economic stability in Ukraine necessitates significant changes in law enforcement policy to combat organised crime, as it has become a significant threat to the rights and interests of human and civil society, the development of society

and national security (Crime rate in Ukraine has decreased..., 2023).

The UN actively combats organised crime, adopting several international legal acts, namely The Naples Political Declaration and the Global Plan of Action against Organized Transnational Crime (approved by the UN General Assembly on 23.12.1994)¹, the recommendations of the Regional Ministerial Seminar on the follow-up to the Naples Political Declaration and the Global Plan of Action against Organized Transnational Crime, the UN Framework Convention against Organized Crime (approved by the UN General Assembly on 21.07.1997)², the UN Convention against Transnational Organized Crime (approved by the UN General Assembly on 15.11.2000 and ratified by the Law of Ukraine of 04.02.2004 No. 1433-IV)³, etc. The UN is implementing various multinational initiatives and programmes to combat transnational organised crime, in particular in the areas of smuggling, human trafficking and drugs.

The European Union is actively cooperating in the fight against organised crime through various initiatives, including joint activities and the work of specialised bodies such as Europol. The EU focuses on strengthening cooperation between law enforcement agencies, sharing information, establishing joint services, and adopting standards. Therefore, fighting organised crime is a complex task that requires joint efforts from law enforcement agencies, government agencies, civil society and international organisations. Therefore, countering organised crime requires a comprehensive approach, as well as continuous improvement and adaptation of strategies in line with new challenges and trends in the world of crime (Madhavan & Kalabaskar, 2024).

Although pan-European and international cooperation, information exchange and technology development play an important role in modern strategies to combat organised crime^{4,5,6} it is necessary to address the specific characteristics of each country and region when determining effective measures that will lead to better results. For instance, in Georgia, in 2005, amendments to the criminal law were adopted to criminalise a special subject – "a thief in law, belonging (membership) to the criminal world"⁷. M. Galeotti (2021) points to the criminalisation of this subject of criminal influence, which would help reduce the pressure of

¹ The Naples Political Declaration and the Global Plan of Action Against Organised Transnational Crime. (1994, December). Retrieved from https://zakon.rada.gov.ua/laws/show/995_787#Text.

² United Nations Framework Convention Against Organised Crime. (1997, July). Retrieved from https://zakon.rada.gov.ua/laws/show/995_786#Text.

³ United Nations Convention against Transnational Organised Crime. (2000, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_789#Text.

⁴ Order of the Cabinet of Ministers of Ukraine No. 850-p "On Approval of the Action Plan for the Implementation of the Strategy for Combating Organised Crime". (2022, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/850-2022-%D1%80#Text>.

⁵ Decree of the President of Ukraine No. 392 "National Security Strategy of Ukraine". (2020, September). Retrieved from <https://www.president.gov.ua/documents/-3922020-35037.11>.

⁶ Order of the Cabinet of Ministers of Ukraine No. 1126-p. "Strategy for Combating Organised Crime". (2020, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/1126-2020-%D1%80#Text>.

⁷ Criminal Code of Georgia. (1999, August). Retrieved from <https://matsne.gov.ge/ru/document/view/16426?publication=236>.

“criminal elites” on economic and diplomatic processes and, ultimately, the resettlement of “thieves in law” from Georgia to other states that have not yet criminalised these acts. Ukraine became one of these countries.

It is necessary to analyse criminal liability and the fight against this phenomenon in Italy. At the end of the 20th century, Italy faced major problems due to the activities of mafia groups, in particular the Sicilian Mafia (Cosa Nostra). In the fight against the mafia, the authorities took various measures, including prosecutions, confiscation of property and rewards for conscientious employees. Indeed, the Italian Criminal Code (Article 416) criminalises associations (unions) for committing crimes, and Article 416b criminalises mafia-type associations (unions). The latter article criminalised a new norm of mafia-type associations, which was intended to counteract associations that were created based on common family ties, promoting a criminal lifestyle, as well as profiting from criminal activities (drug trafficking, money laundering, banditry, etc.). An aggravating circumstance under Article 416b of the Italian Criminal Code is the impact on economic and diplomatic processes in the country¹.

It is also advisable to consider the criminal law policy on this issue in the People’s Republic of China (PRC), whose criminal code criminalises leadership and participation in mafia-like associations (Article 294)². In the PRC, the fight against organised crime is also an important component of state policy. Some of the key aspects of China’s criminal law policy aimed at combating organised crime may include harsh penalties and the use of technology to detect and combat corruption. These measures demonstrate China’s comprehensive approach to combating organised crime, which combines criminal law, police, administrative and technological aspects.

Japan has a similar approach to criminal liability to Ukrainian legislation, as the Japanese Criminal Code establishes serious liability for leaders of the “underworld” (Article 4)³. Japan has its unique strategies to combat organised crime. They focus on preventive measures, including effective judicial proceedings and control over the economic sources of criminals. In the United States, organised crime is countered through a variety of approaches, such as the organisation of special agencies (e.g. the Federal Bureau of Investigation – FBI), defence witness programmes, information sharing between law enforcement agencies, and the use of technology to track criminals (Kamensky, 2020).

In Ukraine, on 4 June 2020, major changes were also made to criminal legislation to increase the criminal liability of organised crime actors and criminalise

“thieves in law”. A “thief in law” is a term used to describe an investigator in Ukrainian folklore and the criminal underworld. The term can also refer to a certain traditional subculture in the criminal environment, especially among criminals who are marked by their code of honour and norms. The history of the term indicates that “thieves in law” originated in the USSR and were kept within a close circle of a subcultural environment (Pavlenko, 2022).

It is noted that this “elite” of criminals had their codes and rules, which they considered important for maintaining their status hierarchy. The main features of “thieves in law” include a code of honour. They are considered superior to criminals and follow their own rules and regulations. Such a code may include the obligation to help each other, non-interference in the affairs of other thieves, quarantine from the legal authorities; and secrecy of identity. A “thief in law” may hide their true identity and use pseudonyms or marks to identify themselves in the subculture, status, and PR. They may strive for a certain status in the community and use PR techniques to strengthen their position among other criminals. It is important to note that this concept is not legally recognised and has no clear legal framework. There is no such term as “thief in law” in official law. It is more of a cultural and social phenomenon that has emerged in certain criminal environments (Sevruk, 2022).

According to part 4 of Article 255 of the Criminal Code of Ukraine, a criminal association is an association of two or more criminal organisations⁴, i.e. an association of persons who jointly carry out criminal activities or engage in criminal acts. Such a community can be organised or unorganised, and it includes persons who cooperate to commit crimes, often guided by common interests or goals. Having analysed the criminal law provisions of this type of organised crime, it is appropriate to highlight the problematic issues that significantly affect the effectiveness of pre-trial investigation. First of all, it is necessary to determine the place of a criminal association among the forms of complicity in a criminal offence and whether a criminal association is a form of organised crime at all. Article 28 of the Criminal Code of Ukraine⁵ does not mention this form of complicity. In this regard, the opinion of O.O. Kvasha *et al.* (2019), who points out the need to specify a fifth form of complicity in Article 28 of the CC of Ukraine, is valid. A criminal association can be considered a form of complicity only if criminal organisations unite to commit a criminal offence (Okolit, 2021). A criminal association is also defined as a new form of complicity by P. Fries & I. Fries (2020). M. Kramarenko *et al.* (2022) rightly emphasise

¹ Criminal Code of Italy. (1930, October). Retrieved from <https://www.altalex.com/documents/codici-altalex/2014/10/30/codice-penale>.

² Criminal Code of the PRC. (1997, March). Retrieved from http://www.npc.gov.cn/zgrdw/npc/lfzt/rlys/2008-08/21/content_1882895.htm.

³ Criminal Code of Japan. (1907, April). Retrieved from http://www.npc.gov.cn/zgrdw/npc/lfzt/rlys/2008-08/21/content_1882895.htm.

⁴ Criminal Code of Ukraine. (2001, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

⁵ *Ibidem*, 2001.

that given that some of the concepts denoting forms of complicity (criminal association, gang, terrorist group or organisation, illegal paramilitary, or armed formation) are not included in Article 28 of the CC of Ukraine¹, the General Part of the CC of Ukraine needs to be re-structured with a clear definition and interpretation of the main concepts denoting forms of complicity. That is, based on the legislative construction of the disposition of part 4 of Article 255 of the CC of Ukraine, a new form of complicity has appeared in content, but it was not specified in Article 28 of the CC of Ukraine².

The term “organised groups” denotes a variety of structures and organisations, including business corporations, political parties, social movements, criminal gangs, and other forms of association. The main subject of the criminal community is the “thief in law”, subordinated to “polozhentsi” (gangsters) and “smotryachi” (watchers). There is no definition of the term “thief in law” in criminal law, but it is actively discussed in academic circles (Bakhurynska, 2020; Toma, 2020). It would be more appropriate to note that the main subject of a criminal community is a person with criminal authority. This term may indicate that a person has a high status in the criminal hierarchy, and the ability to commit and control criminal acts within a particular group or association. The term may be used in different contexts and countries and may differ from one region to another. Such individuals can often become central figures in organised criminal groups. Some common examples of historically famous figures who had criminal authority are appropriate: Al Capone, an American criminal and gangster who was the leader of the Chicago mafia group during the period of prohibition in the United States; Pablo Escobar, a Colombian drug lord and leader of the Medellín drug cartel; Giovanni Falcone, an Italian judge and prosecutor who actively fought the Sicilian Mafia (Cosa Nostra).

One of the main features of a criminal community is the coordination of criminal activities. Control over ordinary crime is a specific feature of the mafia, not other forms of organised crime (Aziani *et al.*, 2020). A mandatory feature is an economic basis, i.e. a criminal cash box or “obshchak”. The “obshchak” (criminal “common fund”) should be understood as the material base – funds (including non-cash) and other material values (as a rule, in places of detention, these can be food, clothing, drugs, alcohol, etc.) The “thief in law” is responsible for keeping records and storing the mutual fund. It is a mutual aid fund in the underworld. The “mutual fund” is replenished, in particular, by profits from professional illegal activities, “taxes” from persons who violate the traditions of the underworld, funds received by “thieves in law” or other criminal authorities as payment for resolving property disputes, and

contributions from gambling. Funds from the “stash” can be used, for example, to pay for lawyers, help relatives of a “thief in law” or other criminal authority in a penal institution, bribe staff of these institutions, investigators, or judges, or organise criminal gatherings (Dudorov & Chernyavskiy, 2021).

There are certain customs and traditions in the criminal world that are undergoing significant changes but remain important to criminals. Many representatives of “thieves in law” have successfully adapted to the new business-oriented environment, but for a significant part of them the traditional criminal code and concepts remain unchanged (Siegel, 2012). The last feature of a criminal community can be defined as a collegial governing body, and the most important issues related to the criminal activity of organised crime are resolved at the so-called “criminal meeting” (Pavlenko, 2022).

For better regulation of the fight against organised crime and criminal networks, the following measures should be taken: strengthening criminal sanctions, as increased penalties for organised crime can help prevent and suppress the activities of criminal groups; international cooperation, as strengthening cooperation with other countries in the fight against cross-border organised crime allows for more efficient use of resources and information sharing; financial monitoring, as increased control over financial transactions can prevent money laundering and reduce financial support for criminal groups, and preventive measures, which consist of developing programmes and measures to prevent youth from becoming involved in criminal activities, can help reduce the number of organised criminal groups in the future.

The criminal law characteristics of a criminal association include first, that it involves two or more criminal organisations; and second, that these criminal organisations have merged into a new form of organised crime (Vozniuk, 2015). The involvement of two or more criminal organisations may include the joint activities of two or more organisations to achieve common goals, such as control of a particular region or type of crime. Coalescence into a new form of organised crime defines a new level of organisation and interaction between criminal organisations. This may include the creation of joint organisations, a common leadership structure, or joint strategies to achieve common goals. Such criminal law definitions help to define organised crime as a complex social phenomenon involving communities that interact to achieve their goals (Dudorov & Movchan, 2022). Given these characteristics, law enforcement agencies and legislators can more effectively respond to such criminal groups and develop strategies to combat organised crime. In this regard, it should be noted that the legislator’s wording that a criminal association is

¹ Criminal Code of Ukraine. (2001, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

² Ibidem, 2001.

an association of two or more criminal organisations is a matter of debate among scholars from different countries. O.O. Dudorov & S.S. Chernyavskiy (2021) point out that the fact that a criminal association may also include organised groups is not addressed.

Analysing the foreign experience of organised crime in countries such as the United States, Italy, Japan, Colombia, and others, it can be noted that criminal communities include not only criminal organisations but also organised criminal groups. Organised criminal groups can be less structured associations where members may be less organised and have a less pronounced hierarchy. They may combine their efforts for specific criminal activities but do not necessarily have a rigid organisational structure. Some foreign countries have a hybrid nature of criminal communities, where criminal organisations and organised criminal groups can coexist, combining elements of both forms. It is important to note that both forms can use technology, and in today's reality, cybercrime can become an important component of both types of criminal groups. Addressing these differences and similarities allows for a better understanding of the nature of organised crime in different contexts and the development of effective strategies to combat it.

The proposal to amend the Criminal Code of Ukraine¹, namely, to add part 5 to Article 28 with the definition of a criminal association, was put forward by P. Fries & I. Fries (2020). This position is supported by O.O. Bakhurynska (2020), who interprets a criminal community as a union of organisers and leaders of a criminal circle created to coordinate and streamline criminal activities, etc. At the same time, organisers and leaders of the criminal environment should be considered to be entities that manage not only a criminal organisation but also an organised group and a group of persons by prior conspiracy. Given this, the legal definition of a criminal association should be supplemented by other criminal associations. The conclusions of the analysis, based on the proposals of the above-mentioned researchers, demonstrate the practical and scientific significance of introducing new approaches to defining and combating organised crime in Ukraine. This creates an opportunity for more effective detection, response, and prevention of criminal communities. These areas of research include further study of the implementation of the proposed changes in law enforcement practices, analysis of their impact on crime statistics and development of effective strategies for interaction with criminal communities. It is also necessary to consider international experience and adapt it to the specifics of Ukrainian realities, developing a comprehensive approach to fighting crime and maintaining law and order. To a large extent, further research in this area will contribute to the improvement of the legal and organisational mechanism of crime

management, contributing to the creation of a safe and stable society.

The feasibility of criminalising criminal associations needs to be clarified, as the reaction to legislative changes in Ukraine regarding organised crime among law enforcement officials and academics has been mixed. Therefore, it is necessary to establish the advantages and disadvantages of establishing the fifth form of complicity. For instance, P. Fries & I. Fries (2020) are positive about the introduction of the fifth form of complicity – an important step, as it is in line with criminal law. The introduction of a new term for the Criminal Code that more fully and accurately describes this form of organised crime and the establishment of a stricter sanction for the creation and management of a criminal association are also positive. At the same time, several scholars oppose this statement and point out the inappropriateness of these legislative changes. For instance, O.O. Kvasha (2021) disagrees with the current criminal law terminology, in her opinion, it contradicts the systemic construction, and the provisions of criminal law, which will only complicate the work of the criminal justice system in the future. This terminology creates additional work for pre-trial investigation bodies since in this case, it is necessary to establish the fact of the creation of each criminal organisation and, in addition, the fact of their association. Investigations must consider the networked nature of criminal activity, where different organisations can cooperate or interact to achieve common goals, and, of course, determining the hierarchy and chain of command in criminal organisations is an important task for pre-trial investigations. This allows for an accurate determination of the structure and interactions between members of the organisation. Therefore, understanding, and effective consideration of the above aspects is key to a successful pre-trial investigation of organised crime. The use of modern methods and the cooperation of international organisations can bring about positive changes in the fight against this serious problem.

Conclusions

The analysis of foreign experience of organised crime in the United States, Italy, Japan, Colombia, and other countries shows that criminal networks encompass various forms of organised crime, including both criminal organisations and organised criminal groups. These organisations can operate in various fields, such as drug trafficking, human trafficking, financial crime, etc. An additional feature is the increase in transnational crime, where criminal communities operate across national borders, using global networks and resources to commit crimes. Various organisational models are highlighted, including hierarchical structures, networked relationships, and hybrid forms of organisations that

¹ Criminal Code of Ukraine. (2001, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

adapt to specific conditions and challenges. There is an increase in the use of technology, in particular in cybercrime, which is becoming one of the key areas of activity in criminal communities. Among other things, criminal groups try to avoid detection and detention by interacting with the law, corruption and other methods, criminals show specialisation and diversification in their activities, looking for new ways to make a profit and avoid offences. It is also worth noting that international cooperation and information exchange are recognised as effective means of combating transnational crime. Given these findings, it is important to develop comprehensive strategies to combat organised crime, including the involvement of cyber defence, law enforcement agencies, and international structures to effectively counter this phenomenon.

The author also analyses various features of a criminal community that indicate its organisation and focus on committing crimes. A criminal community may have a clear structure with a hierarchy, distribution of responsibilities and roles, a chain of command and a system of subordination. The community has an effective communication system, which may include meetings,

encrypted messages, telephone conversations, or other means of communication. Some criminal networks may use violence or intimidation to achieve their goals, control territory, or resolve conflicts. Members may have close relationships or even family ties that facilitate their association and interaction. Criminals may use legitimate businesses as a cover for their criminal activities and the withdrawal of the proceeds of crime; eighth, criminal networks may control territories, defining their geography for criminal activities. Members can share resources and information to ensure joint success in criminal activities. All these features give grounds to distinguish a criminal association as a separate form of complicity.

Further research in this area is promising in terms of studying the European experience of combating criminal communities.

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Conflict of Interest

None.

References

- [1] Androsovich, L.G. (2021). Organized crime in the financial sphere as a threat to the economic security of Ukraine. *Carpathian Legal Gazette*, 1(36), 85-89. doi: 10.32837/pyuv.v0i1.738.
- [2] Aziani, A., Favarin, S., & Campedelli, G.M. (2020). Security governance: Mafia control over ordinary crimes. *Journal of Research in Crime and Delinquency*, 57(4), 444-492. doi: 10.1177/0022427819893417.
- [3] Bakhurynska, O. (2020). The concept of "criminal community": Problems of legal and criminological definition. *Entrepreneurship, Economy and Law*, 1, 190-195. doi: 10.32849/2663-5313/2020.1.34.
- [4] Batyrgareieva, V.S., Babenko, A.M., & Kaija, S. (2019). Corruption in the medical sphere of Ukraine: Current situation and ways of prevention. *Medical News*, 7(9), 1814-1821. doi: 10.36740/WLek201909220.
- [5] Budik, I.M. (2022). Realization of criminal liability of members of criminal organizations for crimes in the sphere of circulation of narcotic drugs, psychotropic substances, their analogues and precursors. *Scientific Bulletin of the Uzhhorod National University*, 74(2), 199-207. doi: 10.24144/2307-3322.2022.74.68.
- [6] Crime rate in Ukraine has decreased, but another problem has arisen – Interior Minister. (2023). Retrieved from <https://www.slovovidilo.ua/2023/09/28/novyna/suspilstvo/riven-zlochynnosti-ukrayini-znyzyvsyavynykla-insha-problema-hlava-mvs>.
- [7] Dudorov, O.O., & Chernyavskiy, S.S. (2021). *Criminal liability for crimes committed by a criminal community (Articles 255, 2551, 2552, 2553, 256 of the Criminal Code of Ukraine): Scientific and practical comment*. Kyiv: Norma prava.
- [8] Dudorov, O.O., & Movchan R.O. (2022). Criminal law countermeasures against the activities of organized criminal associations: Analysis of legislative amendments, determination of prospects. *Legal Journal of Donetsk National University Named After Vasyl Stus*, 2, 152-167. doi: 10.31558/2786-5835.2022.2.15.
- [9] Fries, P., & Fries, I. (2020). About the fight against criminal communities (notes in the margins of the law). *Legal Bulletin of Ukraine*. Retrieved from <https://yvu.com.ua/pro-borotbu-zi-zlochynnymy-spilnotamy-notatky-na-polyah-zakonu/>.
- [10] Galeotti, M. (2021). *The secret battlefield: How the EU can help Georgia, Moldova, and Ukraine protect against Russian subversion*. Retrieved from <https://ecfr.eu/publication/the-secret-battlefield-how-the-eu-can-help-georgia-moldova-and-ukraine-protect-against-russian-subversion/>.
- [11] Golovkin, B., & Marysyuk, K. (2019). Foreign experience in countering (preventing) organized crime in the financial system: Special law enforcement bodies and strategic priorities. *Baltic Journal of Economic Studies*, 5(3), 25-36. doi: 10.30525/2256-0742/2019-5-3-25-36.
- [12] Golovkin, B.M. (2020). About corruption in the private sector. *Journal of the Kyiv University of Law*, 4, 347-355. doi: 10.36695/2219-5521.4.2020.62.
- [13] Hegadi, R., Tripathi, B., Namratha, S., Hariprasad, M., & Priyanga, P. (2024). [Anti-money laundering analytics on the bitcoin transactions](#). *Lecture Notes in Electrical Engineering*, 1075, 405-418.

- [14] Kamensky, D.V. (2020). *Liability for economic crimes in the United States of America and Ukraine: A comparative legal study*. Kyiv: VD "Dakor".
- [15] Kramarenko, Y.M., Skok, O.S., Shevchenko, T.V., & Khashev, V.G. (2022). *Modern issues of combating organized crime in Ukraine and abroad*. Dnipro: Dnipro state University of Internal Affairs.
- [16] Kvasha, O., Zahynei, Z., Shapoval, M., Kurylo, O., & Nikitenko, V. (2019). Corruptive abuses of senior public officials in the banking sphere as a determinant of the Ukrainian economy criminalization. *Banks and Bank Systems*, 14(2), 89-105. doi:10.21511/bbs.14(2).2019.08.
- [17] Kvasha, O.O. (2021). Improvement of legislation in the field of combating organized forms of crime: Illusions and reality. *Constitutional State*, 32, 394-403. doi: 10.33663/0869-2491-2021-32-394-403.
- [18] Logen, J., Moneva, A., & Lakefeldt, R.A. (2024). Systematic narrative review of pathways into, desistance from, and risk factors of financial-economic cyber-enabled crime. *Computer Law & Security Review*, 52, article number 105858. doi: 10.1016/j.clsr.2023.105858.
- [19] Lutsenko, Yu.V. (2020). Combating crime in modern conditions. *Social & Legal Studios*, 1(7), 79-84. doi: 10.32518/2617-4162-2020-1-79-84.
- [20] Madhavan, B., & Kalabaskar, N. (2024). *Digital forensic investigation on ponzi schemes*. *Lecture Notes in Electrical Engineering*, 1075, 191-197.
- [21] Okolit, O.V. (2021). Criminal community as a form of complicity. *Bulletin of the Penitentiary Association of Ukraine*, 3(17), 85-99. doi: 10.34015/2523-4552.2021.3.06.
- [22] Pavlenko, S.O. (2022). *Basics of operational search tactics*. Kyiv: Lyudmila Publishing House.
- [23] Rawashdeh, E., Al-Ramahi, N., Ahmad, H., & Zaghoul, R. (2024). Efficient credit card fraud detection using evolutionary hybrid feature selection and random weight networks. *International Journal of Data and Network Science*, 8(1), 463-472. doi: 10.5267/ijdns.2023.9.009.
- [24] Romashkin, S., Shulzhenko, N., & Liubov, K. (2020). The mechanism of international cooperation according to the UN Convention against Transnational Organized Crime. *Journal of the University of Zulia*, 11(31), 389-402. doi: 10.46925/rdluz.31.24.
- [25] Sevruk, V.G. (2022). *Combating crimes committed by organized groups and criminal organizations formed on an ethnic basis: Theory and practice*. Kyiv: Lyudmila Publishing House.
- [26] Siegel, D. (2012). Vory v zakone: Russian organized crime. In D. Siegel & H. van de Bunt (Eds.), *Traditional organized crime in the modern world. Studies of organized crime* (pp. 27-47). Boston: Springer. doi: 10.1007/978-1-4614-3212-8_2.
- [27] Toma, M.G. (2020). Professional crime: "Thieves in law", their influence on the criminogenic situation in the country. *Law and Society*, 2(3), 81-87. doi: 10.32842/2078-3736/2020.2-3.13.
- [28] Vasylevych, V., Mozol, S., Poklonsky, A., & Poklonska, O. (2021). Regulatory framework for the fight against corruption in the National Police of Ukraine. *Questiones Politicas*, 39(68), 682-695. doi: 10.46398/cuestpol.3968.43.
- [29] Vozniuk, A.A. (2015). *Definition of the concept of "form of complicity" and its types in the theory of criminal law*. *Scientific Bulletin of the National Academy of the Prosecutor's Office of Ukraine*, 1, 46-56.
- [30] Vozniuk, A.A. (2021). Establishing or spreading criminal influence: Current issues of criminal responsibility. *Bulletin of the Penitentiary Association of Ukraine*, 3(17), 21-39. doi: 10.34015/2523-4552.2021.3.03.
- [31] Zabyelina, Y., & Kalczynski, N. (2020). Shadowy deals with "sunny stone": Organized crime, informal mining, and the illicit trade of amber in Ukraine. In Y. Zabyelina & D. van Uhm (Eds.), *Illegal mining*. London: Palgrave Macmillan. doi: 10.1007/978-3-030-46327-4_9.

Злочинна спільнота як вияв організованої злочинності: порівняльно-правовий аналіз

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Анотація

Питання протидії організованій злочинності привертає посилену увагу в контексті розроблення комплексних стратегій протидії та запобігання організованій злочинності після створення в Україні Департаменту стратегічних розслідувань і надання йому повноважень щодо притягнення кримінальних авторитетів до відповідальності. Метою статті є компаративістичне дослідження злочинної спільноти, зокрема висвітлення змісту й сутності явища, а також виявлення недоліків чинного законодавства, у якому не передбачено таку форму співучасті. Для досягнення поставлених завдань у дослідженні використано такі наукові методи: системний – під час характеристики злочинної спільноти як виду організованої злочинності; формально-догматичний – для аналізу юридичних конструкцій; порівняльно-правовий – для зіставлення ознак злочинної спільноти як виду національної організованої злочинності в Україні й інших державах. Досліджено основні причини формування злочинних спільнот, їх стратегії і тактики, а також вплив на соціальні й економічні процеси в суспільстві. Проаналізовано методи протидії цьому явищу на різних рівнях, зокрема правові, поліцейські та соціальні. Акцентовано на важливості розвитку ефективної системи протидії злочинним спільнотам для забезпечення безпеки суспільства та збереження правопорядку. Схарактеризовано структуру та склад злочинних спільнот. Вивчено стратегію і тактику, якими користуються злочинні спільноти для досягнення своєї мети, зокрема організаційну структуру, комунікаційні канали та розподіл обов'язків. Досліджено взаємодію злочинних спільнот з іншими складовими організованої злочинності, такими як транснаціональні злочинні мережі, корупція тощо. Розглянуто стратегії та заходи протидії та припинення діяльності злочинних спільнот. Висновки дослідження можуть слугувати основою для розроблення стратегій та політик у сфері боротьби з організованою злочинністю та підвищення рівня безпеки в суспільстві

Ключові слова:

співучасть; злочинна організація; організована група; злочинний вплив; кримінальна відповідальність; кримінальне правопорушення