

FIGHT AGAINST ORGANIZED CRIME

„Fighting Organized Crime by Specialized Prosecution Offices“

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International Cooperation in Criminal Justice: Prosecutors' Network of the Western Balkans

- Money makes the world go round

consider as well

- Money goes round the world

an unholy mixture, esp. In favor for the criminals

The profiteering and racketeering in accordance with (in the style of) both slogans (ideas) was a topic even before E. Sutherland defined the so-called white-collar crime

Differences between various types of Organized Crimes

- Violence

- Direct – e.g. assaults up to murder
- Indirect – extortion or other forms of threat

- Structure

Kind of hierarchy depending on families, clans, groups ↔ ethnicity etc

- Goals

- Power, (political) influence, profit

OC was always connected with this type of violence – whilst the intensity of these violent activities depends on the type of crime intended to be conducted or the potential psychological effect when the organized crime groups took advantage of it.

Contrary to that so-called „Blue-Collar Crime“
we also have to look at and assess

White-Collar Crime:

„A crime committed by a person of respectability and high social status in the
course of his occupation“

(E. Sutherland)

- Cybercrime followed as another type of crime:
 - Computer/ network is target of the crime
 - A computer is tool of the crime
 - A computer is incidental to the commission of a crime

To easily generate more money the organized crime groups are looking for corrupt civil servants, politicians or judicial staff members to avoid detection, to get warnings or a more lenient punishment, if at all.

Misconduct or illegal behavior of the “upper” class was more or less consistently misjudged as civil failure of nearly less importance.

E.g. bankruptcy partly was assessed as fraudulent (“bust-out”), partly examined as misfortune without any criminal liability

Since mid-sixties prosecution faced an allegedly new phenomenon of crimes the cooperation and entanglement between parts of big business and the organized crime became obvious.

OC not only was a local or even national problem, but - due to the profit seeking of the finance and connected groups – well based cooperation between business, (partly) government professionals and disesteemed criminals

The well-known IOS scandal unsettled thousands of private investors, shook the confidence in the banking system, its financial derivatives.

Thousands of investors in various countries were left with millions of losses of money.

One central figure of that scandal was indicted but after three weeks the prosecutor “resigned”. He did not see any possibility to get that person convicted and asked for a verdict of not guilty. Agents, went unpunished, even without any investigation,

One of their best slogans was “Do you really want to be rich?”

Similar results we found after numerous collapses of companies from the big business as well as from **dubious and not seldom even fictitious companies**, - OC related -, tax “avoiding” projects or financial investment groups based on Ponzi-schemes.

It quickly turned out that these crimes had been committed by mostly organized groups, acting collaboratively and enticing parts of the media and politicians to serve as proponent for their alleged lucrative ideas

This was the starting signal to think about legal possibilities to meet such challenges and to conjointly fight various forms of organized crime

Some ideas :

- the establishment of JIT's,
- local or regional or even nation-wide task forces which should consist of quite different agencies from law enforcements agencies

But permanent task forces often lead to a kind of idle time – a serious waste of manpower and money.

Those schemes disregarded the specific role of the prosecution as head of the investigations/ proceedings

and furthermore

stressed the missing specialization, education and equipment of prosecution

To establish a specialized office/ unit within the prosecution to meet all these criminal activities was an overdue and necessary measure and – as results show – very effective.

How can such a specialized unit successfully fight organized crime?

First, you need to have a law that allows creating a specialized prosecution office for combating OC within a specific jurisdiction and – parallel established - the Court for OC .

This court – depending on the country's judicial system – have to deal with all procedural measures the prosecution for OC applies for.

Strict, correct and comprehensive registration of complaints

- Such laws should contain:

- possible time limitations for specific crime prosecution (if such time limits exist in general)

- allocation of office related investigation

- appointment rules for specialized prosecutors,

- Description of tasks and duties (age, work experience, training, duration of secondment or fixed deployment etc.).

- MLA issues < = > specialized units/ offices (to the MOJ)

- Supervising tasks by GPO

- Second, experienced and best educated prosecution staff,
Head PP with several years' work experience
capability to quickly understand the arising legal and factual
problems, its consequences and probable solution.
Leading, motivating and supporting staff,
allocating the right case to the right staff member
part of the vertical (and internal) control system within the
prosecution system.

- Third, the selection of staff members is one critical point:
- Work experience for some years (best five years or more).
- Necessary to effectively handle procedural rules,
- to meet in a professional correct way the presentations and objections of best paid defense lawyer.

- In addition: other important points for members of such specialized units:
- Individual abilities (strong will to improve skills and knowledge, cooperativeness, being courageously),
- Professional skills (e.g. pertinacity in the trial)
- Teamwork: indispensable.
- Staff members who worked in special units (e.g. drug trafficking) for a long time, gathered information about connections, have experience and quickly can assess and verify the background and degree of criminal reports.

- OC has expanded from violent street gangs to the world of economy and finance, to frauds, forgery and corruption as core areas for OC
- They learned to use similar techniques to hide and launder the proceeds of their crime:
- So, specialized prosecutors need
 - to learn all these aspects of financial/ economic possibilities,
 - to investigate the origin and the transfer of illicit proceeds,
 - to understand placement and layering of illegally gained profits into a legal looking surrounding and to lastly find out where the laundered financial means are hidden (in order)
 - to start thinking about the possibility of asset recovery.

- Asset recovery should be integrated from the scratch of any investigation aimed at fighting OC as profit-driven crimes.
- Confiscation or forfeiture of illegally accrued wealth often has a far more punitive character than any punishment.
- Specialized prosecutors have to deal with asset recovery.
- Since asset recovery activity consists of penal, criminal procedural and civil law issues the prosecutors have to be trained accordingly.

- Looking at and comparing the idea of task forces a specialized prosecution office can be established in a very similar way:
- Auxiliaries for different tasks and integrated within the specialized prosecution office are
 - Accountants
 - Book-keepers (supporting the PP and the accountants similarly)
 - IT-staff (IT administration and as supporters for investigation at the scene and for evaluation of electronic evidence)

- The specialized prosecutor should have (best more than) a basic knowledge of book-keeping and balance criteria
- in order to discuss problems with the accountant and
- to draft necessary applications for searches and/ or seizures to the court in an understandable writing.
- The same applies for basis knowledge and experience for IT-related issues
- (esp. searches, seizures of electronic devices and the handling of electronic evidence)

- As to teamwork:
- Good and trustful cooperation with
 - the competent Police forces
 - Tax investigation units (e.g. FIUs) – can and should be used as auxiliary in bank and / or bookkeeping matters etc (similar to accountants)
 - Customs
 - Other LEAs if existing
 - IT-provider; telecommunication industry etc.

I would like to summarize:

- A specialized prosecution office is necessary and helps to combat OC in the best way when
- this SPO is established and structured similar to any task forces,
 - since in this case the SPO can start to fight these organizations in a more or less concerted pursue by looking after the main targets
 - collects data and synthesizes relevant information, about persons and organization),
 - prioritizes line and course of action,

- consists of staff members with different educational background (such as jurists, economists or bankers as accountants, book-keeper and IT-staff to support gathering and preservation of electronic evidence and its evaluation),
- Is supported (on demand) of various auxiliaries like tax or customs officers, and Police,
- works together with other LEAs in a trustful and cooperative way

Is up-to-date with all relevant developments, with

on-the-job and off-the-training in order to develop, enhance and retain skills necessary to keep pace with local, nation-wide and international crime trends and stay abreast of respective changes,

Keeps friendly and cooperative connection to respective offices abroad

- If we do so we really fight OC instead of scaring them, only

THANKS FOR YOUR ATTENTION!