

COUNTERACTION TO ORGANIZED CRIME IN KYRGYZSTAN**Mr. Bakyt Kakeshov**

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Features of the criminal situation in the sphere of combating organized crime

Among the threats that have become topical in the world in recent decades, against the state and society, organized crime and corruption have come to the fore. In the post-Soviet countries, there is also a process of criminalization in society and the state. Thus, the concept of national security of the Kyrgyz Republic specifically highlights the threats of organized crime, international terrorism and corruption as the most dangerous threats to the existence of the state and its stability.¹

The problem of organized crime in recent years has been the subject of heated debates among legal scholars and law enforcement practitioners.² This type of crime, having increased public danger, judging by the statistical indicators, even taking into account their relative “unreliability”, has a tendency to expand its scope, becoming the main factor of political and socio-economic instability in Kyrgyzstan. Criminals are more and more openly and brazenly challenging law enforcement agencies.

Of particular concern in recent years has been the aggravation of transnational organized crime, which includes elements of international terrorism, drug trafficking, trafficking in human beings and arms. The growing and growing relationship between them makes it necessary to seek new approaches to reduce their negative potential and strengthen the national security system of the country by providing adequate responses.

Despite the obvious relevance, criminological aspects of the fight against organized crime in the Republic were insufficiently investigated and unsystematic, the formation of organized crime was not studied.

¹ The national security concept, approved by President’s decree of July 13, 2001 № PD 221.

² It is well known that, relatively recently, in the eighties of the last century, the problem of organized crime and corruption has not been studied, and has not been raised, because its existence did not correspond to the official political doctrine.

Since the establishment of Soviet power in the areas of modern Kyrgyzstan Basmachi groups operated in the region.¹ One of the most famous criminals of the time was bandit Moydun-bek, in the days of Imperial Russia twice serving a sentence in the penal servitude for murder and robbery. In 1920, Moydun-bek was detained by police squad in Kazan-Sai district. The criminal was disarmed, but at the same time they did not find a whip with a double — edged blade. At night Moydun-bek killed the guard by this weapon, took his rifle, horse, and disappeared in the mountains. While he was free, his subordinate bandits committed many crimes. Moydun-bek, who had the nickname “storm of Nookat”, was captured eight months after his first detention, and later publicly executed in Osh by a court.

In 1924, the Kara-Kyrgyz Autonomous region was formed as part of the RSFSR. After the beginning of the New economic policy has greatly increased the number opium-smoking rooms, gambling dens and so-called shikarnyh shops (places where illegally produced alcohol). On November 1, 1924 the first regional militia was formed. It was established by employees of the worker-peasant militia, the activists of the volunteer corps, brigadine, employees of Chon (special forces, is the prototype of the current police special forces). New law enforcement agencies had to fight against flying gangs, armed smugglers, thieves' blat-khats. Later they had to fight the basmachis, which terrified the whole of Central Asia. It was in the Kyrgyz Republic that this military-political movement lasted longer than other regions— until 1934. The history of basmachism in Kyrgyzstan consisted of three cycles, intensified during the establishment of Soviet power, then into civil war and during collectivization. In different years, Basmachism took various forms - from religious jihad and counterrevolutionary performances to international intervention and the people's liberation uprising. The Basmachi units consisted of bays, merchants, large feudal lords, their servants, representatives of the nascent national bourgeoisie, tribal clan, Muslim clergy, middle and poor strata of the population. Among them there were many criminals who served their sentences in prisons during tsarist Russia. Sometimes the basmachi destroyed entire villages. In 1927, a school, a village council, three shops were burned and 19 people were killed during a day by a group of Basmachi that broke through from a Chinese land with a thousand sabers led by Janybek-kazy. A detachment of Aitmerjek and Adykhodzhaev from Xinjiang in the regional center of Gulcha murdered 32 government officials. The killing of the chairman of the collective farm Urkuya Saliyeva in the Nookat district in 1934 caused great resonance.

¹ Basmachi (from the Turkic “basmak” — raid + suffix-chi) — military-political and religious guerrilla movement of the local population of Central Asia in the first half of the XX century, which arose after the 1917 revolution in Russia. The first significant centers of this movement arose after the defeat of the Kokand autonomy by the Bolsheviks in Turkestan, and after the national division in the territories of modern Uzbekistan, Kazakhstan, Tajikistan, Turkmenistan and Kyrgyzstan, which aimed to fight the Soviet regime and the expulsion of the Bolsheviks. Large organized armed groups of representatives of this movement were called in the Soviet media as Basmachi.

During these times, cattle theft flourished in the republic. The criminals drove herds to Fergana, Kazakhstan and China. Due to frequent raids farmers were afraid to go out to the fields, which hampered the overall development of agriculture. Therefore, the liquidation of bandit groups acquired political significance for the authorities. Often, open trials took place over bandits and even public executions.

After the outbreak of the Great Patriotic War, the Kyrgyz militia had to contend with marauders, runaway criminals and provocateurs, who were grouped together. During the period from 1942 to April 1945, law enforcement agencies eliminated 236 newly formed bandit groups, confiscated a lot of livestock and grain. The detainees seized 1,867 firearms, most of which were from the fronts of the war; about half of this weapon was captured. In total during the war, 7,845 military deserters and 24,145, those who evaded service were detained. On July 7, 1945 thousands of people were released by amnesty from camps and prisons. In addition, mass migration began to the republic of the population from the regions of the USSR, struck by devastation and hunger. The situation was complicated by the presence of about 130,000 special settlers from the North Caucasus and other regions of the USSR. The peak of crime in the republic fell on 1948-1949. During this period, the increase in robbery reached 400 percent, murders increased by 500 percent, robberies by 200 percent, pocket thefts, hooliganism and fraud by 100. In March 1953 another amnesty was held, which freed 1,181,000 people, and more than 9 thousand arrived to the Kyrgyz Republic. In the 1950s, the Frunze militia had to deal with thieves-touring, who migrated to Kyrgyzstan mainly from Siberia. Often with the participation of these thieves bloody showdowns took place in the “raspberries” of the Forge Fortress, in the city quarters - the so-called “London”, “Paris”, “Shanghai” and other residential areas.

In the 1990s, Kyrgyz criminal groups were inferior in power to the well-known Russian organized crime groups (OCG), they were few, but at the same time they were mobile. Kyrgyz OCG had a local-object activity zone with a narrow specialization. However, in a few years these groups developed into powerful criminal communities with a complex hierarchical management structure, with a universal and flexible specialization.

Every year in the Kyrgyz Republic, the share of grave and particularly serious crimes in the overall structure of crime ranges from 60 to 70 percent. At the same time, the number of recorded crimes committed by organized groups has significantly increased (23 - 1995, 195 - 1998, 202 - 2001, and 215 - 2014). In 2017, 230 people were detained for various crimes, which may be related to the organized crime group.

In 2014, in the production of investigators of the militia department of the republic there were 180 criminal cases (including joined ones) against 178 members of the organized crime groups. 122 criminal cases were initiated in 2014, 58 criminal cases were resumed from the number of criminal cases of previous years (in connection with

detention). 148 criminal cases were sent to the court (without taking into account the joined ones) in relation to 150 persons. In 2014, 62 members of the criminal group were convicted of criminal cases sent to court.¹

In the republic, according to the Ministry of Internal Affairs at the beginning of 2000, there were 48 organized criminal groups; 8 criminal communities. Out of 1000 active participants in organized criminal groups, 158 were the so-called. “Authorities” and “polozhenets”.² At the end of 2014, the specialized operational records of the Ministry of Internal Affairs of the Kyrgyz Republic consist of 4 organized criminal groups numbering 687 people.

The practice of combating organized crime with a sufficient degree of conventionality divides the (main) criminal gangs of Kyrgyzstan on the following grounds:

- on a relative (clan) basis;
- ethnicity;
- on the basis of commonality of the region of origin (“community”);
- “sports”;
- on the basis of a previous conviction;
- due to the merger of CIS criminal groups (transnational crime).³

We will note that the official statistics already fixes cases of criminal prosecution for the crimes committed as a part of criminal community. In 2000, which can be noted as the peak of fixed organized crime by law enforcement agencies, members of criminal communities committed 4 thefts and 6 cattle theft, 1 murder, 2 pseudo-entrepreneurship and 2 escapes from prison. In 2001, there were no crimes committed by members of criminal groups or organized groups. However, it should be borne in mind that the statistics in this case reflected only those cases where it became possible to prosecute.

In most cases, crimes committed with complex complicity, in fact, are manifestations of organized crime, because often in court there is a reclassification from the point “commission of a crime by an organized criminal group” to “commission of a crime by a group of persons by prior agreement.”

The assessment of the real state of organized crime in the Kyrgyz Republic, taking into account the 10-fold latency correction factor for such absolute indicators of

¹ According to the main Investigation Department of the Ministry of Internal Affairs of the Kyrgyz Republic

² *Osmonaliev K.M.* Organized crime in the Kyrgyz Republic. Analysis and assessment of the condition. - Bishkek, 2003. Page 21.

³ *Kubatbekov K.K.* Problems of combating organized crime in Kyrgyzstan // Problems of strengthening the fight against organized crime in the Central Asian region. - Bishkek: Ministry of Internal Affairs of the Kyrgyz Republic - UNDP, 1999. Pages 8-16.

organized crime such as the number of organized groups (4) and their active participants (about 700 people) recorded in 2014, is rather conditional. The state of organized crime can be characterized by the following indicators: the number of criminal associations – consolidations of two or more organized criminal groups and their average number; the presence of state officials in organized criminal groups; the territorial scope of activities; the degree of armament and the amount of profit from criminal activities.

The wave of high-profile contract killings in Bishkek in 2004 (15 cases) proves that the level of real organized crime is significantly different from the registered one.

The analysis of the manifestations of organized crime in Kyrgyzstan on these indicators and in comparison with similar indicators of organized crime of foreign countries at different levels of economic development, leads to the conclusion that organized crime in Kyrgyzstan has passed the stage of spontaneous self-development, characterized by the predominance of organized groups of small number (3-4 people), local-object zone of criminal influence with a narrow specialization. Organized groups of the early nineties of the last century were transformed into criminal communities with a relatively large number (30-40 people and more) with a complex hierarchical structure, management, universal and flexible specialization, which has a regional (interregional) scale of criminal activity.

In Kyrgyzstan, a small number of criminal associations were registered in 2010 (4), which are generally specialized in crimes in the sphere of economy, drug trafficking, as well as common criminal acts of self-interest and violence. It should be borne in mind that the statistics reflect, first of all, the degree of efforts of law enforcement agencies in the fight against organized crime, but not its real state.

As in the CIS countries, the development of crime in Kyrgyzstan is taking place against a socio-psychological background characterized by elements of frustration, irritation from the rapidly deepening gap between the income levels of different segments of the population, between the rich and the poor. The leading psychological coloring of a significant part of the committed crimes is aggression, which is reflected in the growth of violent crimes.

Generally criminal, violent organized crime in Kyrgyzstan is quite diverse and often lacks a certain specialization. In March 1999 he was arrested and convicted of organized criminal activities of a group of four people, led by citizen O. Since 1995, criminals engaged in drug trafficking and armed robbery with use of firearms and cold steel. The following weapons were found and seized: a Kalashnikov machine gun, a TT pistol, an edge of a double-barreled gun, two F-1 grenades, a significant amount of ammunition and bladed weapons. The arrested gave a confession in an armed attack on the exchange office “Grant” in Toktogul street in Bishkek, where under the threat of a machine gun, a pistol and a edge of a gun seized money in the amount of 72 thousand

soms. They also carried out a robbery with the use of a machine gun on a bus with merchants on the Kordai pass, attacks on the Bishkek branch of the company “Beta – Kyrgyzstan”, where 45 thousand US dollars were stolen. They also attacked the currency exchange office “Max” and have stolen 14 thousand US dollars. In the city of Taraz (Kazakhstan) they attacked businessmen, as a result of which the criminals seized money in the amount of 98 thousand US dollars. Armed gang O. also committed a robbery against Afghan citizens in Bishkek, seriously injuring a foreigner. During the investigation, it was found that the criminal group had extensive connections in Moscow, Orenburg, Almaty, Taraz, where they supplied heroin from Dushanbe.

There are cases when the criminal group includes former or current law enforcement officers familiar with the methods of operational investigative activities. So, in April, 1996 the criminal group of previously convicted I., the former police officer was neutralized. Former police officers L. and P. have participated together with him in the killings. They are accused of murder from mercenary promptings three merchants. During the arrest 3 pistols, a grenade RGD-5, ammunition for guns, drugs were seized.

Not only as a challenge to the interior Ministry should be regarded committed the unprecedented audacity of the attack in May 2003, a group of eight criminals in the city police Department and the oblast police Department of Jalal-Abad. Inflicting injuries alongside active-duty units of city and oblast police Departments, the bandits seized 34 firearms, including 21 Kalashnikov machine guns, the SVD. It should be noted that the attack was led by a former police officer, previously repeatedly convicted K. – the leader of one of the local organized crime groups.

Almost all the exposed organized criminal groups were armed with various types of weapons (pistols, machine guns, grenade launchers, explosives, etc.), which came from the combat zones and military units in the CIS. In January 1995, the criminal group S. was exposed, which committed a number of robberies and murder. Having entered into a criminal conspiracy with the soldiers of the Balykchy garrison, the members of the group acquired automatic weapons for criminal purposes.¹

When committing daring robberies, criminals in addition to weapons use uniforms and documents of law enforcement officers, for example, during the attack in the VIP hall of the airport in Osh in December 2014, the criminals were dressed in the form of Special Forces in combat uniforms and took possession of more than \$ 5 million.

In addition to the traditional patterns of organized crime analyzed, other types of transnational crime, such as trafficking in human beings, have emerged in recent years. Of particular concern are numerous cases of physical, moral and other violence against the victims of this “business”, which eventually leads to the destruction of the country’s gene pool, the trend of its steady expansion. No less dangerous are the facts of

¹ Kubatbekov K. K. Ibid. page 12.

the direct participation of some representatives of the law enforcement agencies of the Republic in these illegal acts. In recent years, were revealed the facts of issuance of the State Registration service of passports by entering the incorrect data, changes in individual numbers of citizens, etc. In 2014, 5th Main Department of the MOI stated that such passports are more than 2 thousand. Kyrgyz passports were seized from foreign nationals detained for extremist and terrorist activities, wanted and registered on suspicion of involvement in organized criminal activities.

The geographical location of Kyrgyzstan and other Central Asian countries - between the sexes market of East Asia and the Middle East makes them an attractive market for traffickers. The particular attractiveness of Kyrgyzstan in this regard is determined by the fact that there are gaps in the legislative framework, the system of law and order and border control. Currently, the Kyrgyz Republic is one of the corridors for the transfer of drugs in this direction; there are organized criminal groups on its territory, which can quickly change to human trafficking. The difficult socio-economic situation of the population of the Republic also contributes to the expansion of trafficking in persons. More than 60% of the population of the Republic is currently below the poverty line.

A characteristic feature of organized crime in Kyrgyzstan is the participation of illegal migrants organized along ethnic lines. These include the so-called Chechen criminal groups, as well as groups that include citizens of Russia, Kazakhstan, Tajikistan and Uzbekistan.

One of the activities of organized criminal groups consisting of illegal migrants is participation in the illegal legalization (laundering) of funds. The involvement of illegal migrants in firearms smuggling and international terrorism was identified as a very real threat. Thus, in July 2000, the leadership of the Ministry of Internal Affairs of the Kyrgyz Republic reported in the press about the detention of a large group of terrorists who were part of the extremist organization “Liberation of Uighurs”. This group committed a number of serious crimes in the spring of 2000 in Bishkek and its surroundings, which received a wide public response. In particular, the murder of the leader of the Uighur community B., the kidnapping of Chinese businessman I., the shooting of a group of businessmen at the hotel “Dostuk”, a raid on the exchange office “Shah” in Bishkek.

The end of 2002 and the beginning of 2003 were characterized by the intensification of actions of extremists and terrorists. So, in order to destabilize public – political situation in Central Asian region, on the territory of Kyrgyzstan, a group of members of the “Islamic Movement of Uzbekistan” (IMU) were behind the bombings on the “Oberon” market of Bishkek and in the exchange office of the Osh branch of “Bakai Bank”.

Obviously, the transnational nature of the murder of a group of Chinese businessmen, burned in the bus heading to China in the spring of 2003, transnational crime is a particularly corrosive force against smaller countries (which in general applies to Kyrgyzstan), it could undermine the transition to democracy in the new sovereign States. Examples of how sovereignty and territorial integrity can be violated are already taking place (in this sense, the events related to the permanent incursions of armed groups of international terrorists recruited by Islamic radicals into the territory of the border regions of Kyrgyzstan in 1999-2000). It is very possible that national clans, representatives of organized crime, led by separatist ideas, based on political, religious or criminal extremism will decide to destroy the territorial integrity and sovereignty of the state.

Describing the features of organized crime in Kyrgyzstan, it should be noted the impact on the crime situation of organized criminals in prisons. In 2006, in the largest penal colony CLC 31 there was a prison riot, which killed a member of Parliament – the brother of the then known criminal authority, head of the Main Department for the Execution of Punishments of the Ministry of Justice of the Kyrgyz Republic, injured other employees of the Department of Penitentiary Affairs of the Ministry of Justice of the Kyrgyz Republic. These events were called “prison nightmare” and confirmed the weakness and inefficiency of the prison system, the impact of organized crime in places of detention. Later, there were less bloody and smaller-scale cases of mass disobedience in the colonies and Pre-trial detention center (SIZO-1) carried out with the direct participation of organized crime.

The criminal world strengthens its positions at the expense of the younger generation. Increase year by year the facts of school bullying and the penetration of criminal subcultures of the educational institution.

In addition, it should be noted the phenomenon of organized crime among the large Kyrgyz diaspora in the Russian Federation. According to various estimates, the number of migrants from Kyrgyzstan in Russia has reached one million people, while the facts of racketeering of compatriots by Kyrgyz criminals, robbery and disassembly of the newly appeared “watchman” ethnic Kyrgyz in large cities and regions of Russia are increasing.

Thus, the main directions of organized crime in Kyrgyzstan are represented by “white-collar” crime, drug trafficking, ordinary organized crime and transnational crime. The majority of the population feels full or partial insecurity of their fundamental rights and freedoms due to the growth of corrupt links of organized crime in the state apparatus.

These data on the main features of organized crime in Kyrgyzstan do not serve the purpose of unjustified intimidation of the total and uncontrolled spread of organized crime. It seems that the mythologization of some phenomena, in particular the rampant

organized crime, which accounts for only 1-1.5% of the recorded crimes, can harm the fight against crime. The criminal situation in this area is aggravated by the fact that at present there is no effective criminal policy to counter organized crime, adequate to its scale and public danger. At the same time, there is an extremely dangerous trend – the build-up of transnational ties among the criminal communities of some States of the near and far abroad, which is greatly facilitated by objective prerequisites: the openness of borders, the expansion of economic ties between the countries, the lack of legal regulation of these processes.

Organized crime, despite the fact that it is a small part of crime in general, can create a real threat of losing the authority of the state in the eyes of the population, to deprive the effectiveness of any democratic transformation. Therefore, a consistent and, in most cases, rigorous criminal policy towards organized criminals is required on the part of the state.

Problems of combating organized crime.

In a broad sense, the policy in the sphere of combating organized crime is a set of legal, organizational and other measures that determine the strategy and tactics of combating this type of crime.

The legal basis for the fight against organized crime in Kyrgyzstan is its Constitution, criminal legislation and other legislative acts, international law, international agreements and treaties, the Law of the Kyrgyz Republic “On combating organized crime”, the Law of the Kyrgyz Republic “On operational investigative activities”, Presidential Decrees and Government resolutions, departmental normative documents that allow to build a single line of fight against organized crime and corruption. Over the past few years, Kyrgyzstan has concluded a number of both multilateral and bilateral treaties on combating organized crime within the CIS,¹ and in 2001 signed the UN Convention on combating transnational organized crime.

Practice shows that criminal groups successfully use legal and organizational unsettledness of interstate relations and constant business contacts and connections of criminalists in the fight against organized crime. The higher the level of internationalization of crime, the more active and comprehensive should be the interaction of States in the fight against it.

It is obvious that the delay in the development of inter-state agreements and the adjustment of national legislation has a negative impact on the practice of combating organized inter-state crimes.

¹ See, for example, the Agreement on cooperation of the ministries of internal affairs in the fight against organized crime, signed on February 17, 1994 in Ashgabat, Turkmenistan.

In the Kyrgyz Republic, the understanding that organized crime is not a mythical but a real phenomenon emerged in the first years after the Declaration of the sovereignty and independence of the Republic. As early as 18 December 1992, the President issued a Presidential Decree “On measures to combat corruption in the civil service of the Republic of Kyrgyzstan”, which noted that the economic crisis and the deterioration of the life of the majority of the population, the weakening of discipline and responsibility in society are accompanied by an increase in organized crime and corruption.

This decree was created by the General Directorate for combating economic crime and corruption (GUBEPK) in the Ministry of Internal Affairs. At the same time, an anti-corruption and anti-smuggling office was established in the state Committee on National Security. Since 1989, in the Ministry of the interior acted Interregional department, the competence of which includes the fight against organized crime.

The increase in the activity of law enforcement agencies in the fight against crimes in the economic sphere was influenced by the Decree of the President of the Kyrgyz Republic dated December 14, 1998 “On additional measures to strengthen the fight against economic crimes, smuggling and corruption”, pursuant to which the specialized Department for combating organized crime and banditry – GUBOPB of the Ministry of Internal Affairs was formed. At the initiative of UNDP, Kyrgyzstan has developed a target program of organizational, methodological, material and technical support for the new office, for the implementation of which the main sponsor – the Government of Denmark has allocated 750 thousand dollars for the period 1998-2000. A special place in the program was given to training, the introduction of Western technologies to counter organized crime in the field of finance, economy, drug trafficking. GUBOP Ministry of internal Affairs tried to take the situation in the field of combating organized crime under its control.

The main tasks of the established Department to combat organized crime and banditry of the Ministry of Internal Affairs were defined:

- detection, suppression and investigation of organized criminal groups and gangs;
- protection of the economy from organized crime;
- fight against extortion;
- assistance to the territorial and transport bodies of Internal Affairs of the Republic in the disclosure and investigation of the activities of criminal associations;
- identification of the causes and conditions conducive to the emergence of organized crime.

Identification and suppression of illegal activity of the most stable criminal formations and their leaders which had negative impact on normal activity of the

population in various regions of the Republic were also designated as the priority direction in activity of Department.

It should be noted that during the period GUBOPB has identified and solved more than 700 crimes, including 11 murders committed under aggravating circumstances, 18 robbery with a weapon, 62 robberies, and 10 rapes. 31 leaders and “authority” of the criminal environment which committed a number of serious crimes as a part of the organized groups are detained and brought to trial, activity of 38 most steady and active criminal formations was stopped.¹

However, the office has not been able to fully address the tasks assigned to it. In 2001, the UBOP was transformed into a structural unit of the main criminal investigation Department (GUUR) of the Ministry of Internal Affairs of the Kyrgyz Republic, which did not slow down to affect the complication of the already uncontrolled situation in the sphere of combating organized crime.

In our opinion, UBOP GUUR of the Ministry of Internal Affairs of the KR with its small staff and weak equipment, in fact, was the truncated service as can't carry out the activity in full.

In 2006, taking into account the intensification of the criminal world and, in particular, representatives of organized crime, including organized criminals in prisons, the wave of “contract” high-profile murders of politicians, large businessmen and law enforcement officials, it was decided to establish the Main Directorate for combating organized crime, which was able to stabilize the criminal situation in the Republic. In the course of law enforcement reform in 2017, units to combat organized crime have become a part of the criminal police service of the Ministry of Internal Affairs.

However, the law enforcement agencies of the Republic do not detect and neutralize branched criminal structures and their criminal activity in its full scope, but only certain criminal acts of ordinary members of these communities. Undoubtedly, qualitatively different counteraction of organized crime, essentially new solution of issues of prevention of this type of crime, including the organization of activity of law enforcement agencies, perhaps, through creation of new independent specialized structure is required.

Due to the lack of the necessary legal framework to combat organized crime, law enforcement agencies are in a difficult situation, and they do not have sufficient experience in dealing with some new types of crimes, especially in the field of reforming the economy, the banking system, there are serious problems in the material and technical equipment and training.

¹ *Osmonaliev K.M.* Organized crime in the Kyrgyz Republic: analysis and assessment. – Bishkek, 2003.

It should be noted that for a long time the draft law “On combating organized crime” was developed, i.e. there was no essential tool to combat organized crime. The first law “On combating organized crime” was adopted in 2011, but in 2013, due to the revision of many provisions of this law, a new law “On combating organized crime” was adopted.

The law defines the state policy and organizational and legal basis for combating organized crime. Its tasks are:

- 1) protection of rights and freedoms of individuals and legal entities, security of society and the state from organized crime;
- (2) prevention and suppression of organized crime;
- 3) creation of legal and organizational bases for combating organized crime;
- (4) addressing the causes and conditions conducive to organized crime;
- 5) detection and suppression of criminal activity of persons involved in an organized criminal group, criminal community (criminal organization), armed group (gang).

Directions in the field of combating organized crime in accordance with the law are:

- 1) creation of legal and organizational basis for effective counteraction to organized crime, organization of international cooperation;
- 2) information support;
- (3) identification and elimination of the causes and conditions of organized crime;
- 4) prevention of the formation of an organized criminal group, criminal association (criminal organization), armed group (gang), including the scheme of financing their activities;
- 5) detection and suppression of criminal activity of an organized criminal group, criminal community(criminal organization), armed group (gang), including the scheme of financing their activities;
- (6) bringing the perpetrators to justice and ensuring redress;
- 7) prevention of establishment of corrupt relations with civil servants and officials, their involvement in criminal activities;
- 8) counteraction to the use of organized criminal group, criminal community (criminal organization), armed group (gang) of associations of citizens or mass media for the purpose of distribution of criminal ideology or for other criminal purposes.

This law for the first time introduced the following basic terms and concepts, previously not defined by law and therefore often disputed by lawyers of organized criminals groups:

Criminal ideology is a historically developed system of views and representations of the group consciousness of persons, based on the assessment of social reality from the point of view of the criminal subculture.

Criminal hierarchy – a system of views and assessments on the situation (status or role) of a person in organized criminal groups, criminal communities (criminal organizations), armed groups (gangs).

Criminal subculture – a relatively independent pseudo-cultural environment that exists in society, based on the opposition of universally recognized values and norms of the hostel and expressed in criminal forms of organization of life.

Criminal status – the position of a person in the criminal hierarchy, defined and recognized by the rules established in the criminal world.

Leader of an organized criminal group, criminal Association (criminal organization), armed group (gang) – the law refers to a person who enjoys recognized authority in the criminal hierarchy, having a higher position and personal influence on the coordination and organization of activities of organized criminal groups, criminal communities (criminal organizations), armed groups (gangs), ensuring the formation and structural construction of such groups or communities.

Operational and preventive registration is an information system formed in the body engaged in combating organized crime, about organized criminal groups, criminal communities (criminal organizations), armed groups (gangs), legal entities and individuals involved in organized criminal groups, criminal communities (criminal organizations), armed groups (gangs).

Organized crime – activities carried out by organized criminal groups, criminal associations (criminal organizations), armed groups (gangs), characterized by signs defined by the criminal legislation of the Kyrgyz Republic.

Official warning – a procedural document of an official of the authorized state body engaged in combating organized crime, drawn up against a person to comply with and to fulfill the requirements of regulatory legal acts.

Counteraction to organized crime – activity of authorized state bodies of the Kyrgyz Republic:

1) on detection, suppression, disclosure and investigation of crimes committed by organized criminal groups, criminal communities (criminal organizations), armed groups (gangs);

2) prevention of organized crime, identification and subsequent elimination of the causes and conditions conducive to the emergence of organized crime (prevention of organized crime).

Preventive measures against organized crime – the Law refers to the activities of the authorized state bodies for the prevention and suppression of manifestations of organized crime, the study, identification and elimination of the causes and conditions that contribute to its development, ensuring individual education of a person involved in organized criminal groups, criminal communities (criminal organizations), armed groups (gangs).

Criminal way of life – antisocial way of life of persons, directly indicating their belonging to organized criminal groups, criminal communities (criminal organizations), armed groups (gangs), characterized by the denial of accepted standards of morality and virtue in society.

Verification of financial and property status – measures to verify the legality of the available financial income of individuals and legal entities involved in organized criminal groups, criminal associations (criminal organizations), armed groups (gangs), and the validity of their acquisition of property.

A member of an organized criminal group, a criminal association (criminal organization), an armed group (gang) - a person who intentionally participates in the activities of an organized criminal group, a criminal community (criminal organization), an armed group (gang) or assists in creating conditions for their maintenance and development.¹

The most effective measures to counter organized crime, we believe, are preventive measures, to which the law referred:

- 1) official warning;
- 2) registration in the operative-preventive record in the bodies of internal affairs;
- (3) duties imposed by the court;
- 4) verification of financial and property status in accordance with the legislation

of the Kyrgyz Republic.

Preventive measures are applied to individuals and legal entities if the data obtained in accordance with the legislation of the Kyrgyz Republic indicate that such persons:

- 1) have or establishing contact with leaders and members of organized criminal groups, criminal associations (criminal organizations), armed groups (gangs);

¹ Art. 2 of the Law of the Kyrgyz Republic “On Countering Organized Crime” of May 29, 2013, No. 82.

2) provide financial and material assistance to organized criminal groups, criminal communities (criminal organizations), armed groups (gangs);

3) support the criminal ideology of organized criminal groups, criminal associations (criminal organizations), armed groups (gangs);

4) with the exception of minors, use the results of organized criminal activity and the services of subjects of organized criminal groups, criminal associations (criminal organizations), armed groups (gangs), dependent on them and their criminal activities;

5) engage in the involvement of persons in organized criminal groups, criminal associations (criminal organizations), armed groups (gangs) and assist in strengthening the structure of the criminal hierarchy.

It should be noted that in order to ensure the safety of witnesses and other participants in the process who may be threatened by OCG members, the Law No. 170 of 16 August 2006 “On the protection of the rights of witnesses, victims and other participants in criminal proceedings” was adopted. In the Ministry of Internal Affairs of the Kyrgyz Republic in 2014, a special department for protection of witnesses was formed. The office has the task of providing security to persons participating in criminal proceedings, which, by law, required by court order to provide this Pro Bono. This decision may be taken by the judge, the Prosecutor, the investigator and the head of the body of inquiry in which the criminal case is pending. However, the lack of an effective mechanism for the physical protection of victims, witnesses, experts, suspects and accused (both actual and potential) continues to have a negative impact on the fight against organized crime. Witnesses and their relatives are often in danger in the form of committed against their various illegal acts, even murder. For example, a person who is a member of a criminal association and who has testified to the commission of a crime against the leader or other head of the association is often threatened with death in accordance with anti-social traditions and customs. Therefore, to ensure an effective fight against organized crime, it is necessary to provide real and effective protection of witnesses, victims, experts from possible attacks.

In addition, the criminal prosecution of organized criminals remains a complex process and the difficulties are primarily related to problems of proof. Difficulties with proving arise also in the composition of crimes connected, in particular, with the so-called laundering of “dirty” capital, which requires appropriate standards for financial control and obtaining from banks the necessary information on suspicious transactions, as it was introduced in a number of countries.

A significant gap in the legislation is the lack of a provision in the current criminal law on liability for preventing the immediate provision, at the request of law enforcement agencies, of the necessary statistical, reporting materials in the bodies of state power and departments and other structures.

We believe that it is necessary to determine a special procedure for the production of cases of organized crime, the order of anonymous presentation of the results of operational investigative activities as evidence.

It should be noted that the current criminal legislation of the Kyrgyz Republic (the Criminal Code of 1997) still does not strictly regulate the fight against organized crime, in the new KR Criminal Code of the 2017, which comes into effect in January 2019, these issues also remain. The Criminal Code establishes a norm on criminal associations (organizations) and on the specifics of the responsibility of their participants. In addition, there is a differentiation of the responsibility of participants in the criminal community, depending on the role they perform. So, a person who created an organized group or a criminal community or directed them should first of all be responsible for organized criminal activity. In addition, the organizer or the head of the criminal community (criminal organization) should also be responsible for specific crimes committed by an organized group or criminal community if they were planned under his direction and covered by his intent. Ordinary members of the criminal community are responsible for the crimes in the preparation or commission of which they took part, as well as for participating in such a community.

In a Special part of the criminal code should, in our opinion, to expand the list of compounds, the most qualifying features of which would be appropriate to include the commission of a crime by a criminal association (criminal organization). The Criminal Code should expand the scope of compromise (“deal”) with persons who agree to expose the leaders of criminal communities, guaranteeing them appropriate protection. The existing legal basis for the application of the “deal” in the current Criminal Code does not allow effective prosecution of members of criminal organizations, while the “deal” is successfully practiced in a number of Western countries.

It is necessary to note the absence of serious analytical or forecast work in the sphere of combating organized crime, which did not allow giving an extremely clear idea of its status. Data of the information system of the Ministry of Internal Affairs are not correlated with the relevant information of the GKNB, judicial statistics on completed criminal cases are also different from the statistics of the Ministry of Internal Affairs and GKNB, information dissociation exists even at the level of one unit.

According to most experts, the main directions for improving the prevention and suppression of organized crime should be as follows:

- development and application of a sufficient regulatory framework (including relevant amendments and additions to the Criminal Code, criminal procedure and Criminal Executive Code, the Law “On operational investigative activities”);
- sufficient resources to combat organized crime;

- sufficient qualification and specialization of law enforcement officers;
- support for public opinion.¹

The above is only a part of the problems to be solved in order to create an effective system of combating organized crime.

It is necessary to implement the only correct approach to combating organized crime and corruption, namely, to unite all the forces and funds involved in the fight against these types of crime. For this purpose, it is necessary to develop a special concept and a program to combat organized crime, designed for the near, medium and long-term prospects.

It is known that the state policy of fight against crime receives the expression in the corresponding Programs. A program to strengthen the fight against economic crime, smuggling and corruption was adopted in the Kyrgyz Republic for the period 2001-2003. There was even a Program of measures to combat the smuggling and trafficking of persons in the Kyrgyz Republic for the period 2002-2005. Currently, the third anti-corruption strategy of the state policy has been approved.

However, there is no specialized Program to combat organized crime. There is also no officially approved relevant concept, which should be based on well-established methodological approaches and include methods for preventing organized crime and forecasting its development trends. To this end, representative and systematic criminological research will be required. Such kind of research is possible only if they are provided with organizational and financial support, attraction of qualified scientific personnel and necessary means. The current practice of combating organized crime in Kyrgyzstan testifies to the virtual weakening of such a struggle, in spite of the officially stated intentions of the state to intensify this struggle. In most cases, courts assign guilty to punishment below the lower limit or milder penalties than provided for in the criminal law (which is often associated with corruption in the justice system). As an example, one can cite the sentence in the so-called case Kara-Balta “sports obtshak” in 1997, engaged in extortion. Chui Regional Court sentenced: B. (leader of the group), K., S., S-va. and K-va to 3 years of imprisonment with confiscation of property of each (minimum for these articles). The sixth member of the group, D., was sentenced below the lower limit - 1.5 years imprisonment. All without exception, as the first convicted, were determined to serve their sentence in a colony-settlement. There are also more recent examples of excessively “soft” sentences against organized criminals. There is a case where the prosecutor’s office, acting as a prosecution in the Pervomaisky District Court of Bishkek in 2006 in the process against the well-known criminal authority of R.A-v, simply refused to support the state prosecution.

¹ Osmonaliev K. M. Ibid. page 67.

S. S. Boskholov reasonably proposes to introduce brand certain penalties for offences in the sphere of organized crime and noted: “It is important, in particular to ensure that, by excluding the possibility of selection of judges, the penalties to a certain extent, to protect them from exposure to members of organized criminal groups, often seeking various illegal means (threats, blackmail, etc.) to force judges to assign the least restrictive alternative provided for in or with respect to a particular sanctions punishment”.¹ We fully agree with this point of view. We will add that any attempts to ignore (disrespect) the law (especially criminal) lead only to disorganization of legal policy and create conditions for mafia lawlessness.

The state, in our opinion, should adequately oppose measures to counter organized crime; the liberalization of criminal policy is unacceptable here. We can agree with the opinion of A. Alekseev that, in principle, emergency measures, if they are provided for by law, carefully (and not by the Central Committee of the CPSU (b) and the circulars of the Cheka — OGPU) are regulated, moreover, reasonably limited in space and time, can be considered not only acceptable, but also necessary as an adequate response to emergency situations created by the actions of criminals. He believes that: “in fact, the content of anything shocking-overly repressive, trampling on the rights of law-abiding citizens, limiting their freedom, was not in the famous Decree of the President of the Russian Federation № 1226 of June 14, 1994 “On urgent measures to protect the population from banditry and other manifestations of organized crime.” The measures of it was generally proportionate response to the threat that carried the fledgling organized crime. (But they had to be, of course, established by law, not by a by-law.)”² Something similar to the mentioned famous decree of Boris Yeltsin can, in our opinion, be adopted in Kyrgyzstan in the manner prescribed by law.

Summing up the discussion of certain aspects of state policy of the fight against organized crime in Kyrgyzstan it is possible to draw a conclusion about the absence of a unified strategy and tactics. The state in this direction, in our opinion, acts consistently: declaring war on organized crime and corruption through the directives of the head of state, at the same time cannot provide a fair punishment to members of organized criminal communities (groups), creating an atmosphere of impunity and permissiveness; creates specialized structures to combat organized crime, and then abolishes them.

The fight against organized crime in Kyrgyzstan has been and continues to be somewhat controversial and declarative. The necessary conditions have not yet been created for the effective fight against organized crime:

¹ *Boskholov S. S. fundamentals of criminal policy: constitutional, criminological, criminal-legal and informational aspects.* - M.: Training and consulting center YurInfoR, 1999. page 133.

² *Alekseev A. I. Should the criminal policy be liberal? // "Black holes" in Russian legislation.* No.1., 2003. page 68.

- mechanisms of implementation of the law “On combating organized crime” are not sufficiently developed in the legal sphere;

- in the sphere of executive power, an integrated system and an appropriate program to combat organized crime have not been created;

- special services to combat organized crime are not equipped with everything necessary, leaves much to be desired special training of police officers, their law enforcement, wages, etc.

In order to enhance the effectiveness of policies to combat organized crime, we believe that the following measures should be taken:

1. The specifics of the new sphere of law enforcement require the creation of a specialized law enforcement agency of the highest level of competence. This body should be responsible for a wide range of issues related to the organization and coordination of the fight against organized crime, for the development of the main directions of state policy in this area, the overall management and coordination of operational and statistical records of all activities of state bodies for the implementation of this policy, etc.

2. Given the extremely complex nature of the object of influence, it is also necessary to address the issues of the formation of specialized units of the court and the Prosecutor’s office, a special system of places of detention of organized criminals, using the best foreign experience.

3. There is a need to strengthen the effectiveness of the protection of witnesses and other participants in the process.

4. In these circumstances, the fight against organized crime can be significantly increased with the complex interaction of all the special services of the CIS, customs authorities, national Bureau of Interpol, tax, border agencies, regulatory authorities, etc.

5. The priorities in this direction should be as follows:

- definition of a strategy to combat organized crime;

- establishment of a comprehensive legal framework for this activity;

- organization of a single special state structure providing such activities;

- training of specialized personnel on the basis of international experience, scientific base, timely response to new phenomena in crime (creation of a specialized scientific and training center);

- sufficient financial, material and technical support for the fight against organized crime.

Criminal policy in the sphere of combating organized crime should be rigid and at the same time differentiated, corresponding to the degree of public danger of attacks by organized criminals.

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