

CRIMINAL COMMUNITY: CRIMINOLOGICAL APPROACH**Margarita G. Kozlovskaya***Dostoevsky Omsk State University, Omsk, Russia***Article info**

Received –

2020 March 16

Accepted –

2020 May 15

Available online –

2020 July 03

Keywords

Organized crime, organized criminal group, criminal organization, criminal community, criminality

The subject of the research is the criminal community, its characteristics, and features within the framework of criminology.

The purpose of the research is to confirm or disprove hypothesis that a criminal community as a criminological phenomenon is not equal to a criminal organization or an organized criminal group

Methodology. The author uses general theoretical methods (comparative analysis, generalization, deduction) and specific methods (formal legal interpretation of legal acts, questionnaires).

The main results, scope of application. A criminal organization and a criminal community are different criminological phenomena that differ from each other in significant ways. The differences are both in the degree of criminal organization, and the complexity of the structure of internal and external interaction. From the point of view of a systematic approach, a criminal community is not only a more complex system compared to a criminal organization. It is characterized by an improved structure of internal interaction, in which the hierarchical structure is either complicated, or replaced or supplemented by a network structure. The peculiarity is to complement the system approach with a synergistic one: in the criminal community, the pooling of criminal efforts is carried out more effectively, mainly in the sphere of external relations. The criminal community is a more open system compared to the criminal organization. Certain features can be identified in the contacts of criminal community members with the external environment. The most important feature is a symbiosis of criminal and legal practices that affects the life of entire regions or relatively large masses of the population. The criminal community is a purposeful system with its own specifics. And this specificity is seen in the fact that the criminal community pursues (secretly or openly, at the moment or in the foreseeable future) the achievement of political goals, namely: the possession of power, infiltration into power, undermining power, its capture and retention. It is power, not wealth, that is the real goal of the criminal community, and not just because it is easily converted into wealth. Power is valuable in itself, because it also gives a lot of other advantages.

Conclusions. A criminal community cannot be reduced to a criminal organization, much less – to an organized criminal group, and this conclusion requires to be included into legislation.

1. Introduction. The position of the Russian legislator.

The Russian legislator, and after him the law enforcement officers, identify the criminal organization with the criminal community.

In the Resolution of Plenum of the Supreme Court of the Russian Federation of 10.06.2010 No. 12 "About court practice of consideration of criminal cases about the organisation of criminal community (criminal organization) or participation in it (her) the attention of the ship is drawn to the fact that the criminal community (criminal organization) may conduct its criminal activities or in the form of a structured organized group or Association of organized groups operating under a single management. It is emphasized that the law does not establish any legal differences between the concepts of "criminal community" and "criminal organization". And further the Plenum explains: "A structural subdivision of a criminal community (criminal organization) should be understood as a functionally and (or) geographically separate group consisting of two or more persons (including the head of this group), which, within the framework and in accordance with the goals of the criminal community (criminal organization), carries out criminal activities. Such structural divisions, United to solve the common tasks of the criminal community (criminal organization), can not only commit individual crimes (bribery, forgery of documents, etc.), but also perform other tasks aimed at ensuring the functioning of the criminal community (criminal organization).

The Association of organized groups presupposes the existence of a single leadership and stable links between independently operating organized groups, joint planning and participation in the Commission of one or more serious or

particularly serious crimes, joint performance of other actions related to the functioning of such an Association."

2. Scientific discourse.

Thus, there are no criminal differences between a criminal organization and a criminal community under Russian law. There are criminological differences and, obviously, this fact causes a discussion about the identification of the concepts of "criminal community" and "criminal organization". In particular, some authors consider the use of the term "criminal organization" excessive, while others consider it "criminal community" [1, p. 26-29; 2; 3, p. 7]. At the same time, the discourse is rarely taken outside the boundaries of the "conceptual field", which is generally characteristic of criminal law specialists, who often do not see reality behind the concepts. And the reality is that a criminal organization and a criminal community are different criminological phenomena that differ from each other in significant ways. Criminological features of the criminal community are expressed in the concept proposed in the draft Federal law "on combating organized crime", prepared by the author's team under the leadership of the President of the Russian criminological Association A. I. Dolgova: "criminal community – an Association of persons who have committed, commit crimes, and others to consolidate the criminal environment; maintain its norms and customs; exercise non-legally based control over various groups of persons, objects, areas of activity and territories; development of relationships in the criminal environment, including among convicts serving sentences in penal institutions, pre-trial and temporary detention facilities; ensuring illegal interests or illegal means in state authorities, other state and public structures, local self-government bodies, organizations of any form of

ownership." Accordingly, "a criminal organization is a structured organized group of persons, gang, illegal armed or other criminal formation, United on the basis of joint Commission of crimes, criminal activities and functioning for the extraction of criminal proceeds, or to ensure separatist or nationalist, religious, political or other interests for a certain period" [2, p. 358]. As we can see, A. I. Dolgova considers the criminal community as an Association of criminal leaders.

Another position is held by V. N. Burlakov, who notes the pyramid structure of organized criminal formations:

- the lower part of the pyramid consists of stable groups of individuals who have United to commit one or more crimes;
- at the intermediate level, there are criminal organizations-cohesive, internally organized groups created for the Commission of serious and especially serious crimes;
- the top part of the pyramid is occupied by criminal communities that have United several organized groups, directing and coordinating their illegal activities, controlling a certain territory or sphere of public relations [4].

Noting this difference in the positions of T. V. Yakushev, joins the point of view expressed by A. I. Dolgova [3, p. 58]. We believe that in criminological terms, the criminal community is an independent form of criminal activity that characterizes the phenomenon of criminal management at the highest level. The criminal community can manage the activities of two or more criminal organizations, achieve their merger or improvement of the organizational structure and division of functions in order to "optimize", but also solves many other strategic and tactical tasks: consolidation of the criminal environment, legalization of their position in society and the state, protection of their interests at the legislative level, etc. In other

words, a criminal community can be an Association of criminal organizations with a single control center, or an Association of leaders of the criminal environment. Other types of organization of criminal management at the highest level are not excluded, Which V. N. Burlakov tried to reduce to six configurations (unitary, Federal, Confederate, authoritarian-unitary, totalitarian-Federal, club)[4]. We think that the expression "state within a state" is closer to reality [5, p. 33], although in reality the situation can also be denoted by the words "competitor of the state" and even "instead of the state". In any case, criminal communities, unlike criminal organizations, always attract the highest attention to themselves and, as historical experience shows, they are often attacked with the full power of the state apparatus (for the purpose of destruction).

Thus, the criminal community differs from the criminal organization and it is necessary to establish these differences, especially since the legislator, using the terms "terrorist community" and "terrorist organization", "extremist community" and "extremist organization", to a certain extent presumes their existence.

3. Evaluation by practitioners.

We conducted a survey of 82 police officers, who were asked the question "Is there a difference between criminal organizations and criminal communities?" The respondents' responses were distributed as follows (in%):

1. Criminal associations have a more complex structure and a higher level of organization:

a) Yes-91; b) no – 9; C) I find it difficult to answer – 0.

2. Criminal associations operate on a larger scale, their criminal interests usually extend beyond the region:

a) Yes-72; b) no -28; C) I find it difficult to answer – 0.

3. The criminal community are turning more frequently to the assistance of professionals, such as lawyers, accountants, economists and financiers who use their knowledge or face-down:

a) Yes – 89; b) no 9) difficult to answer –

2.

4. Criminal networks take advantage of more complex and expensive technologies to conduct operations, maintain security and evade justice:

a) Yes - 77; b) no – 22; C) difficult to answer – 1.

5. The activities of criminal communities, unlike criminal organizations based on a long term basis, which includes the selection and training of a multifaceted funding (including support of prisoners and their families):

a) Yes – 79; b) no – 21; C) difficult to answer – 0.

6. Activity criminal activity criminal communities based solely on a professional basis, in criminal organisations there is a level of professionalism:

a) Yes – 69; b) no – 30; C) difficult to answer – 1.

7. Criminal communities blend criminal activity with legitimate is the rule and in criminal organizations – with the exception of:

a) Yes – 79; b) no – 21; C) difficult to answer – 0.

8. In criminal associations, the establishment of transnational criminal contacts is the rule and in criminal organizations – with the exception of:

a) Yes - 79;- b) no – 20; C) difficult to answer -1.

Thus, from the criminological point of view, the differences between a criminal and an organization and a criminal community are in the degree of criminal organization – it is higher (and in a complex of features – noticeably higher) in the criminal community.

At the same time, it should be borne in mind that such organization concerns strategic decision-making. We should also take into account the last two signs, although they may seem controversial in relation to some criminal organizations.

4. Differences between a criminal organization and a criminal community.

A. I. Gurov names eight signs of a criminal organization:

- availability of material resources, which is manifested in the creation of shared funds, possession of a Bank account, real estate;

- official cover ("roof") in the form of registered funds, joint ventures, cooperatives, restaurants, casinos, security companies, etc.;

- a collegial management body in which the organization is managed by a group of persons (Council) with almost equal status;

- the Charter in the form of established rules of conduct, traditions, "laws" and sanctions for their violation (some even had a written Charter);

- functional and hierarchical system-the division of the organization into constituent groups, interregional relations, the presence of an intermediate governing core (the Grand Council, bodyguards, information services, "controllers", etc.);

- a specific linguistic and conceptual system that includes jargon, features of written and oral speech (nicknames, special moral institutions);

- information base (collection of various types of information, intelligence and counterintelligence, TV companies, newspapers);

- the presence of their own people in the authorities, in the judicial and law enforcement system [6].

Such signs are not necessarily present in every criminal organization, they are rather characteristic of its highly developed version,

which indicates that the criminal organization in its development can go through various stages depending on the level of a kind of "bureaucratization": from the lowest to the highest. Some criminal organizations stop at a primitive stage of their development, others continue to "move up", approaching the state of the criminal community. Here there is a manifestation of a kind of criminal dialectic, when the sum of signs that cause a "jump" - the transition of quantity to quality [7; 8, p. 385-390] is accumulated. At the same time, the external conditions of the existing socio-economic formation are of great importance [9, p. 161].

In our view, the phenomenon of organized crime has a pyramid structure. It is based on organized criminal groups. Their development leads to the emergence of criminal organizations. In turn, the sociodynamics of criminal organizations, associated with the complexity of their organizational structure, a higher level of social claims, the ability to influence economic and political processes, and other characteristics, leads to the emergence of criminal communities. Here it is essential to emphasize that a criminal community cannot be reduced to a criminal organization, much less to an organized criminal group.

5. Systematic approach to the analysis of the criminal community.

From the point of view of a systematic approach, a criminal community is not only a more complex system compared to a criminal organization. It is characterized by an improved structure of internal interaction, in which the hierarchical structure is either complicated (including many criminal organizations with a single control center), or replaced or supplemented by a network. And here the leaders of the criminal community often show themselves as high-level system operators. The

peculiarity is to complement the system approach with a synergistic one: in the criminal community, the pooling of criminal efforts is carried out more effectively, mainly in the sphere of external relations. Here, the thesis about the merging of two opposite worlds-legal and illegal-is extremely important. "It is important to find out," G. N. writes. Gorshenkov, - what laws are subject to convergence, then "cooperation", which passes into an inseparable relationship of the synergy of two opposite entities, so that interconnectedness acts as a fundamental feature of system education – in a separate criminal or criminal group (in its various modifications)" [10, p. 73].

I. M. Matskevich believes that depending on the stability and cohesion of organized criminal groups are divided into: 1) bandit, consisting mainly of young people, which can also be called primitive (but they are also the most United); 2) raider, which have a narrow specialization in the capture of other people's corporate property in the form of enterprises and assets; 3) management-corrupt, which are associated with officials of different levels; 4) pseudo-legal, which are issued in various types of enterprises, with mandatory passing registration (for example, private security companies, private detectives); 5) criminal-business, which are multi-disciplinary criminal associations [11, p. 5]. Here, in our opinion, the dynamics of "transformation" of criminal organizations into criminal communities is shown.

The criminal community is a more open system in comparison with the criminal organization and it is in systemic contacts with the external environment (their level, complexity, interweaving, direct, reverse, direct and indirect connections) it is possible to identify certain features. The most important of them is a symbiosis of criminal and legal practices that affects the life of entire regions or relatively large masses of the population.

The criminal community is a purposeful system with its own specifics. And this specificity is seen in the fact that the criminal community pursues (secretly or openly, at the moment or in the foreseeable future) the achievement of political goals, namely: the possession of power, infiltration into power, undermining power, its capture and retention. It is power, not wealth, that is the real goal of the criminal community, and not just because it is easily converted into wealth. Power is valuable in itself, because it also gives a lot of other advantages, and this property was recognized by famous criminals of all times and peoples. At the same time, we must understand that along with the legal power, there is a criminal power, as well as a symbiosis between them. The embodiment of criminal power is a criminal society with its own system of values [12].

In General, the difference between a criminal community and a criminal organization is more qualitative than quantitative, and this qualitative difference has a subjective dimension – both for participants in criminal activity and for experts. Both can make mistakes and make mistakes in good faith, so it is important to continue to search for criteria that allow us to confidently identify the criminal community and criminal organization.

This is a difficult task, given the variety of approaches to analyzing organized crime. For example, the Dutch researcher Edward Klimans, based on the study of Western (mainly American criminological literature), identifies six such approaches [13]:

- 1) the conspiracy theory of outsiders who threaten the democratic foundations of a civilized society (Cressy, Klimans, Varese) [14; 15; 16; 17];
- 2) a bureaucratic model that focuses on the way groups are organized and assumes that criminal organizations are very similar to

formal bureaucracies (Albini, Paoli, Yanni) [18; 19; 20];

3) the concept of entrepreneurship, which States that illegal activities are very similar to legal practices and that illegal entrepreneurs (as well as illegal enterprises) are productively considered in the market categories of economic science (Schelling, Reuter, Moore) [21; 22; 23];

4) the theory of protection (providing security services, ensuring security) of entrepreneurship, explaining the widespread racketeering practice (Gambetta, Jacobs and Peters, van LAMPE) [24; 25; 26];

5) the concept of social transactions (social interactions, capital of personal relationships), which is based on trust, which is difficult to win and dangerous to lose (Chambliss, Morselli, Coleman, Campana) [27; 28; 29; 30];

6) situational analysis based on the characteristic of typical scenarios of group crimes in which "structures of opportunities and "convergences of offenders" are combined (Godfredson and Hirschi, Smith, Steffensmeier and Ulmer) [31; 32; 33].

6. Conclusions.

It is desirable to use each of these approaches, giving a criminological definition of the criminal community as the highest form of organization of criminality, carrying out such criminal practices (as well as a symbiosis of criminal and legal practices) that affect the life of entire regions and relatively broad masses of the population in order to possess power, infiltrate power, undermine power, capture and retain it.

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BIBLIOGRAPHIC DESCRIPTION

Kozlovskaya M.G. Criminal community: criminological approach. *Pravoprimerenie = Law Enforcement Review*, 2020, vol. 4, no. 2, pp. 109–116. DOI: 10.24147/2542-1514.2020.4(2).109-116. (In Russ.).