

Нагорна А.,

здобувач ступеня вищої освіти бакалавра
Національної академії внутрішніх справ
Консультант з мови: **Хоменко О.**

THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT («RICO») AS A METHOD OF COMBATING ORGANIZED CRIME IN THE UNITED STATES

Today, organized crime is a big problem not only for Ukraine but also for the whole world. Criminals create their own "criminal families", clans, in order to commit large-scale serious and especially serious crimes. Unfortunately, the Criminal Code of Ukraine does not specify the main purpose of organized crime— to make profits and extra profits. This allows us to regard those associations of criminals who commit so-called general crimes (theft, robbery, robbery) as organized. Such case does not fully correspond to the modern definition of the essence of the phenomenon of "organized crime".

Thus, undermining the economic and financial activities of organized criminals is one of the most effective methods of reducing their criminal influence. It is important to note that in recent years in Ukraine there has been almost no such type of punishment as confiscation of property. Although, in the legislation of Italy, the USA, international documents the central role is assigned to it as the factor that stops "growth" of criminal property.

Particularly, in the United States, there is the RICO Law, a US law on organizations operating under the influence of racketeering and corruption, aimed at combating organized crime.

It was adopted on October 15, 1970. Since 1972, thirty-three states have adopted state RICO laws to be able to prosecute similar conduct.

It was designed to prosecute not individuals but organizations that can be legal entities (including private, public, or state ones) and any group of de facto united persons. The penalties provided by this law are much more severe than for individual predicate offenses, which helps prosecutors use a judicial compromise aimed at convicting the perpetrator of less serious crimes in exchange for cooperation and testimony against the leaders of criminal organizations.

Under the law, the meaning of racketeering activity is set out at 18 U.S.C. § 1961. As currently amended, it includes:

- Any violation of state statutes against gambling, murder, kidnapping, extortion, arson, robbery, bribery, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in the Controlled Substances Act);

- Any act of bribery, counterfeiting, theft, embezzlement, fraud, dealing in obscene matter, obstruction of justice, slavery, racketeering, gambling, money laundering, commission of murder-for-hire, and many other offenses covered under the Federal criminal code (Title 18);

- Embezzlement of union funds;
- Bankruptcy fraud or securities fraud;
- Drug trafficking; long-term and elaborate drug networks can also be prosecuted using the Continuing Criminal Enterprise Statute;
- Criminal copyright infringement;
- Money laundering and related offenses;
- Bringing in, aiding or assisting aliens in illegally entering the country (if the action was for financial gain);
- Acts of terrorism [4].

Pattern of racketeering activity requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity. The US Supreme Court has instructed federal courts to follow the continuity-plus-relationship test in order to determine whether the facts of a specific case give rise to an established pattern. The illegal acts comprising a pattern are called "predicate" offenses [1]. Predicate acts are related if they "have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events" [2]. Continuity is both a closed and open ended concept, referring to either a closed period of conduct, or to past conduct that by its nature projects into the future with a threat of repetition.

Despite some of the RICO predicate acts are extortion and blackmail, one of the most successful applications of the RICO laws has been the ability to indict and or sanction individuals for their behavior and actions committed against witnesses and victims in alleged retaliation or retribution for cooperating with federal law enforcement or intelligence agencies.

Although the RICO laws may cover drug trafficking crimes in addition to other more traditional RICO predicate acts such as extortion, blackmail, and racketeering, large-scale and organized drug networks are now commonly prosecuted under the Continuing Criminal Enterprise Statute, also known as the "Kingpin Statute". The Continuing Criminal Enterprise Statute laws target only traffickers who are responsible for long-

term and elaborate conspiracies, whereas the RICO law covers a variety of organized criminal behaviors [3].

The result of the application of the RICO law was the imprisonment of the leaders of Cosa Nostra, liquidation of entire "families" of criminals belonging to the Italian mafia. For example, by 1990, thousands of key actors in organized crime groups and their aides had been sentenced to long terms of imprisonment, including five of New York's most influential "families," as well as members of the Cosa Nostra in Boston, Cleveland, Kansas City, Pittsburgh and other cities.

Thus, it can be concluded that RICO laws are very effective in the United States. The introduction of their analogue in Ukrainian legislation would help in the fight against organized crime by increasing the punishment and ensuring the protection of witnesses and victims of criminal offenses.

Список використаних джерел:

1. "Racketeer Influenced and Corrupt Organizations (RICO) Law". Justia. April 2018. Archived from the original on September 14, 2018. Retrieved September 15, 2019. [Електронний ресурс]. – Режим доступу: <https://www.justia.com/criminal/docs/rico/>

2. H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 240 (1989). [Електронний ресурс]. – Режим доступу: <https://supreme.justia.com/cases/federal/us/492/229/>

3. Carlson, K (1993). "Prosecuting Criminal Enterprises". National Criminal Justice Reference Series. United States: Bureau of Justice Statistics Special Report: 12. Archived from the original on September 11, 2007. Retrieved December 28, 2009. [Електронний ресурс]. – Режим доступу: <https://bjs.ojp.gov/content/pub/pdf/pce.pdf>

4. 18 U.S. Code § 1961 – Definitions. [Електронний ресурс]. – Режим доступу: <https://www.law.cornell.edu/uscode/text/18/1961>

Назарук О.,

здобувач ступеня вищої освіти бакалавра

Національної академії внутрішніх справ

Консультант з мови: Хоменко О.

HUMAN TRAFFICKING IN GERMANY

Trafficking in human beings for the purpose of sexual exploitation remains the main form of trafficking in human beings in Germany [6]. Trafficking in human beings for the purpose of labor exploitation also exists, but to a lesser extent. In some cases, criminal proceedings have been