

THE ISSUE OF ORGANIZED GROUP IN CRIMINAL LAW

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Abstract

The issue of an organized group is one of the most problematic issues in the article presented in the criminal law. The long discussion between the scholars on this issue, which should be given a lot of place in the article, shows the problem. Should be part of an organized group which is clearly felt in the article. The article also highlights the arguments of prominent scientists, especially in the part where it turns out that the sign of solidity has been misunderstood since 1947, and this issue has been well addressed in the Russian legal literature. No dispute was caused by the issue of the group organized before the well-known resolution of the Plenum can not be determined on the basis of solidity which is the current problem of criminal law. The presented article clearly emphasizes the change in the criminal law of 2006, which directly concerns the organized group, which caused linguistic nonsense in the legislation and at the same time raised the issue of the legislator. Therefore, when we touch on the issue of an organized group, the sign of solidity is not typical for it, it can be created to commit a single crime, which is clearly stated in the article.

Key words: organized group, criminal law, legislation, Code of Justice, linguistic nonsense.

1. Introduction

Organized group is clearly different from the previous two criminal groups. In this case, there is an organized connection of a group of persons. Organizing a group precedes committing a crime. It is usually impossible to create and organize a group at once. And depends on a number of objective and subjective circumstances including the crime or crimes that this organized group intends to commit. However, sometimes organized crime ends with the so-called banditry from the moment it is formed, which is a crime that ends with the moment a group is formed, unlike an organized group that can be set up to rob a commercial bank and have a robbery scheme or plan worked out within a month. Even if the organized group does not carry out criminal activities, its members are still responsible for the crime. An attack (Article 325 of the Criminal Code of Georgia) can be firmly organized, even though it is essentially intended to commit one crime, as Prof. G. Nachkebia points out. That an organized group that is ready to commit one or more serious crimes or a particularly serious crime is particularly dangerous, especially if the organized group has already committed a premeditated crime.

2. Organized Group

The Code of Justice often refers to the commission of a crime by an organized group. And this definition of the notion of organized group should be used in the articles of the private part of the Code where „organized group is a qualifying mark of crime“.

It is not possible for an organized group to be formed to commit a single crime, for example, someone to organize a group for the purpose of premeditated murder. The Murder for revenge motive after the murder for this motive, the group will disband and will no longer continue its criminal activities.

Prof. O. Gamkrelidze emphasizes that the actions of all members of the group will be qualified as a crime committed by an organized group, if he knew that he was a member of such a group. If the perpetrator of any crime was not a member of an organized group, then his action will not be qualified under this sign.

Prof. O. Gamkrelidze is right when he mentions that in the case of a group organized in court practice, mistakes are frequent. According to the judgment of the Criminal Appeals Chamber of the Tbilisi District Court of February 28, 2003, U. Afriamashvili, A. Krtiani, R. Liashenko, Gelashvili and N. Khmaladze were sentenced to life imprisonment. To be convicted under Article 177, Part 2, Paragraphs A and B and C and Part 3, C.

The convicts acted with prior agreement, they had committed four thefts so in this part their actions were qualified as theft committed by a group with prior agreement This qualification is incorrect O. Gamkrelidze notes that the court seems to have paid attention to the fact of the preliminary agreement and did not assess the fact that a group of criminals committed four thefts.

This means that we are dealing with a solid criminal group, so the perpetrators should be qualified by the part of Article 177 which provides for liability for theft by an organized group (Article 27 chapter 3, part 3) in case of illegal possession of stolen property. In the criminal activity, in the precise definition of the functions of the participants in his criminal specialization, in the presence of strict internal discipline in the planning and implementation of various criminal activities over a long period of time, it is true that these signs are manifested differently in different organized groups.

Knowledge of the fact of a crime committed by other members of this group is not enough for the ordinary member of the organized group to be responsible, it requires direct participation in it. A member of the group shall be liable only for the offense for which he or she participated in the creation or management of the organized group. The actions of all members of the group will qualify as an offense committed by an organized group if he knew he was a member of such a group. If the perpetrator of any crime was not a member of an organized group then his action will not be qualified under this sign, as we see an organized group committing a crime is clearly different from the previous two criminal groups.

This organized union is built on strict executive discipline, a sharp distribution of the same quality roles, and the subordination of its participants. In addition, it is possible to single out a person or persons within the group who in one way or another strengthen the bond between the members of the group and thus give it an organized character.

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An organized group is usually strictly separated from ordinary household circumstances so that the activities of this group remain unknown to other random persons or are not infiltrated by random persons, which may lead to disorganization of the group.

This is done for the purpose of strict conspiracy. In order for the criminal action of the group to be safe, e.g. The peculiarity of such criminal gangs is manifested in the relatively long criminal activity of the group in the planning and execution of various criminal activities over a long period of time under Article 27 of the Code. Criminal Law responsibility for organizing and leading an organized group rests with the person who created or led the organized group.

Therefore, the organizer and leader of a criminal organization is liable as an executor for what was committed by the group of persons, regardless of whether he was directly involved in their commission, but if

his intentions were not sufficient for the ordinary member of the organized group to be held liable by other members of that group. Knowledge of the fact requires direct participation in it.

As we know, in a group crime all accomplices are the first and second parts, but in the second part it is controversial, and if it is an organized group, the third part of Article 27 is an exception. And the participant to be a member of an organized group, some not in this case this qualifying mark will only be charged to the person who is a member of such an organized group...

Many articles of the private part of the Criminal Code also provide for the commission of an organized crime as a qualifying circumstance. The Code also recognizes the special composition of organized crime, e.g. Banditry However Banditry Article 224 of the Criminal Code and the crime committed by an organized group Article 27 3 3 of the Criminal Code are not identical concepts Unlike a gang, an organized group may not be armed Prof. M. Turava notes that an organized group can be created as a gang again for one or more crimes to insert what is certainly not correct which we will be talking about.

If we share this opinion, it turns out that even a gang can be created to commit a single crime. The time is also mentioned by Prof. O. Gamkrelidze then the commission „removed one or“ from the project and then we got „several“ which became the original version of the JSC Code which was a justified wording but this wording lacked in the sense that an organized group can not always be solid. To set up an organized group to commit a single crime e.g. Someone to organize a group for the purpose of premeditated murder was carried out with the motive of revenge. G. Nachkebia, in the general part of the criminal law published by TSU in 2004, p. 220, states that in the third part of Article 27 of the Criminal Code, a provision should be added on the possibility of forming an organized group to commit one crime. On the possibility of forming an organized group, however, he notes that this does not apply to banditry, which is designed to commit several crimes. It is necessary to find out what motivated the legislature when such a wording was introduced in Article 27 to strengthen the responsibility against organized crime and whether it is explained by the fact that the organized group is explained by great public danger and its increased danger. It was considered not only an organized group that was created to commit several crimes, but also one that was created to commit only one crime. Donjashvili Criminal Code of Georgia p. 207 states otherwise understand „firmness“ in the strength of a group organized in the Russian legal literature – Article 35 of the Criminal Code of the Russian Federation defines permanent ties between group members and specific methods of activity Such a definition of a concept would greatly complicate the definition of this concept in practice when it is very easy to identify a group organized under Article 27 of the Code if a few words would suffice to formulate a group.

The word one that was added to this text by the law of August 25, 2006, what exactly was the reason for this is difficult to say and like the legislation of the Russian Federation and whether we got linguistic nonsense. Prof. O. Gamkrelidze notes the point is that one and several are mutually exclusive words here because one implies. If an organized group is considered to be a group of criminals created to commit one crime, especially such a group is considered organized when it intends to commit several crimes, so by introducing the word „one“ the legislator should remove the word „several“ from the text but then the word one lost its meaning. Because it would turn out that we would have an organized group only when the group intended to commit only one crime, the notion of an organized group was thus obscured.

An organized group is a solid group, and solidity means that a group is made to commit more than one crime. A group is solid because after one crime it does not disintegrate and continues criminal activities. T. Doijashvili notes in his textbook that an organized group is formed, usually for several crimes. A gang can be formed for only one attack. The gang, when referring to the author, has in mind the composition of banditry described in Article 224 of the Criminal Code of Georgia. But it is noteworthy that when Z. Don-

jashvili refers to the concept of organized group, he first defines solidity as committing an indefinite number of crimes. The two concepts differ from each other in another way. Article 224 Creating a gang is an already finished crime, while creating an organized group is qualified as preparing a crime for theft or other crime, and even more dangers of an organized group than a normal group can be expressed by an organized group. The objective side to be performed directly by one of its members may also be characterized by a greater degree of inaccuracy than some cases of co-execution. It is interesting that all members of a criminal organization can be executors, but for the most part the roles are distributed among them in such a way that the perpetrators of one crime are e.g. They commit a crime directly, while the others perform other functions to achieve a common criminal goal. The members of such an organization are united in large numbers, although the participation of two people is not excluded, and at the same time the strength of the group may be. Participation in a gang ends when a person joins it, even if they have not committed any action.

Now let us turn our attention to one important issue which may have been much debated in the legal community and that was the separation of banditry and organized group. Will be qualified, robbery committed by an organized group regardless of what weapons they were equipped with, but there is a second case, organized robbery group carries out attacks several times using automatic firearms, they have carried out six robbery attacks such an attack is bandit organized by a gang

Thus, in the face of a solid group of individuals who are armed and intend to carry out several robbery attacks Prof. G. Mamulashvili notes that the purpose of robbery is to seize someone else's movable property through an attack, while bandits may aim not only to seize another person's property by attack, but also to commit other aggressive crimes (e.g., sexual offenses, unlawful deprivation of liberty and other private part of the law. 2011 539-e) Moreover, robbery committed by an organized group may not be armed, and if it is armed, it should not be a solid group, otherwise the gang is in the face. The first case is clear. Mamulashvili notes that it is indeed possible for an organized gang to be driven not only by property crimes but also to be imprisoned illegally and given the status of banditry. Which does not belong to the category of cold steel and how many attacks such a group wants to carry out its responsibility will be determined by robbery and if armed and solid in the face of a gang that goes beyond organized robbery can be said to be ambiguous. Used firearms and in the second case used firearms but in the face of a solid group we emphasize that the weapons are not only This is a sign of a gang, but also a sign of a bandit attack. This sign makes a bandit attack especially dangerous, but sometimes there is no need to use a weapon. For example, an armed gang attacked a citizen's house, but because the family members were in a state of insomnia, they did not need to use a weapon. Had for a possible need.

In the example above, someone may have a reason to argue. In the first case, the group did not have a weapon and bought it after the second attack. But it can be used during the first attack and no longer used during the second attack. It is both armed and solid. It is over from the moment but the attack on the gang was not carried out on a characteristic basis. Banditry is because the group is solid from the moment it was formed but has not been realized. Action with the characteristics of a gang should be qualified as robbery of an organized group only in the second case or the whole cycle of attacks, we think it is better Judicial practice to refine the relationship between general and special norm and to decide on the preference of the special.

Now, in this paragraph, I would like to touch upon the issue related to the draft Criminal Code of the Russian Federation, Article 30 of which defines the concept of an organized group. It is said that the complicity of the crime will be considered by the persons who were previously united as a solid group Prof. Otar Gamkrelidze points out that the concepts of organized group and „Shaika“ are confused here because solid-

ity is characteristic only for „Shaika“ which is a criminal organization. „Criminal organization is a foreign (Italian) word“ gang „The Russian term corresponds to the term Shaika, which differs from an organized group in terms of solidity.

This issue was well dealt with in the pre-revolutionary Russian legal literature and did not cause any controversy until 1947. Prof. Gamkrelidze mentions for the first time the confusion of the notions of an organized group and a shaykh, which was politically motivated and not a scientific one. The history of this issue was mentioned in the famous resolution of the Presidium of the Supreme Soviet of the Soviet Union on June 4, 1947 in M. Kovalev's book.

It seems that the authors of the project do not have a clear idea of the content of the group. „Stability“ means that the group was created not to commit a single crime, after which it will be disbanded, but for criminal activities. For example, he will continue this activity for more or less a long time. The strength of the group, writes Prokhorov, finds its expression in the fact that its participants suggest not committing a particular crime after which the group should cease to exist but they have foreseen to carry on this work permanently or for above mentioned time, which is calculated on the recurrence of criminal acts.

Professor Otar Gamkrelidze carries on the critics of project and says that the sustainability of organized group is not strength it may be created for ne crime and then it should be destroyed.

3. Conclusion

Organized group, this is an ordinary criminal group, which does not differ from complicity in any significant way by prior agreement. Prof. O. Gamkrelidze draws attention to another point according to the project „Sign of solidity“ Solid-armed group – we read in the project to attack enterprises, institutions, organizations or individuals, but in practice there is no explanation for the meaning of solidity in what is meant by this sign. Since 1947, O. Gamkrelidze is a sign of solidity is misunderstood in the case law. The commission of a crime is always more severely punished It seems that the authors of the project attach more importance to stability than to prior agreement. Article 150, Part 2 of the draft stipulates one of the qualifying signs of theft organized by a group of D. A sign of prior agreement is necessary for an organized group as well so after that we have to investigate whether the group was solid here the practitioner will face great difficulty Prof. O. Gamkrelidze explains that defining an organized group as a sign of solidity should not be justified in any way, especially since this sign is not typical for him.

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