

## **Fighting Against Organized Cross Border Crime in Romania: The Experts' View**

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### **Abstract**

*This research aims to find out the opinion of the experts in fighting against organized cross border crime regarding the scale of this phenomenon in Romania. The paper pursued the following research objectives: the scale of the phenomenon of organized cross-border crime in Romania, the vulnerabilities induced by the phenomenon in Romania, what are the factors that influence the development of organized cross-border crime, what are the necessary legislative changes to combat the phenomenon and to help the well-functioning of the competent institutions and what can be done to strength the institutional cooperation for combating organized cross-border crime. In order to achieve these objectives, a qualitative research was conducted on a panel of experts, employed in Romanian institutions responsible for preventing and combating this phenomenon. The research findings show that the characteristics of the phenomenon of organized cross-border crime are constantly changing and launch permanent challenges for both Romania's security and its economic development.*

**Keywords:** organized crime; organized cross-border crime; Romania; panel of experts; economic development;

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### **1. Introduction**

This research aims to find out the opinion of the experts about the organized cross border crime (OCBC) in Romania, looking to: the scale of the phenomenon in Romania, the vulnerabilities induced by the organized cross border crime in this country, what are the factors that influence the development of OCBC, the necessary legislative changes and public policies that should be implemented to combat OCBC, to support the function of designated institutions and to foster the institutional cooperation for combating organized cross-border crime.

The paper is structured in 3 parts. The first part aims to describe the characteristics of the phenomenon of organized cross-border crime in Romania. The second part will follow the legislation adopted by the designated institutions in Romania in order to combat the phenomenon. The paper continues with the perspectives of experts on aspects related to the function of institutions and the institutional cooperation between agencies involved in fighting against this phenomenon. The paper end with conclusions related to the necessity to improve not only the legal frame in combating OCBC, but in enhancing the institutional

cooperation for a better understanding of the phenomenon in order to find out solution for combating it.

The research was conducted using a questionnaire distributed among experts, and includes questions related to: “*what is the opinion of experts on the scale of organized cross-border crime*”, “*what is the opinion of experts on the vulnerabilities induced by organized cross-border crime on the Romanian economy*”, “*what is the opinion of experts on which are the factors influencing the development of organized cross-border crime*”, “*what is the opinion of the experts regarding the legislative and public policies changes necessary to combat the phenomenon*” and “*what is the opinion of the experts about the functionality and the institutional cooperation in fighting against organized cross-border crime*”.

The opinion of the experts converges to the fact that the allocation of resources for prevention activities and the non-eradication of the corruption that allowed the penetration of the structures are the main vulnerabilities of the Romanian state.

## **2. Organized Cross Border Crime as a Form of Organized Crime**

Organized cross border crime (OCBC) is a form of the organized crime. In order to better understand what OCBC is, the literature on organized crime should be investigated. Organized crime refers to transnational or local groups involved in various criminal activities, whose main purpose is financial benefits (Antonopoulos and Papanicolaou, 2018). There is not a general accepted definition of organized crime. Most of the understandings of the concept of organized crime underline the organizational structure and the extraction of the financial gains from illicit activities (Antonopoulos and Papanicolaou, 2018). According to the United Nation “organized crime is a continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand. Its continuing existence is maintained through corruption of public officials and the use of intimidation, threats or force to protect its operations” (UNODC, 2021).

In a more complex definition, “organized crime is defined as a non-ideological enterprise in which several people are involved, organized on a hierarchical basis with at least three levels, set up in order to contain profit and power, with involvement especially in illegal but also legal activities” (Abadinsky, 2012, p. 27). Other experts (Finckenauer and Voronin, 2001, p. 3) consider that organized crime is represented by illegal actions committed by criminal organizations that use systematic violence and corruption to facilitate their illegal activities. These criminal organizations have various capabilities to cause economic, physical, psychological and social damage. The greater their capacity to do harm, the greater the danger they pose to society. Organized crime manifests itself in most sectors of economic and social life, seeking to gain control over certain areas and financial markets. In parallel, its exponents also aim to infiltrate the real economy by using methods of intimidation and corruption in order to obtain profit and influence.

In terms of hierarchical relationships, the structure of an organized crime network is pyramidal and has a level of command and decision (“white collars”). Below this level is the operative section (“of the lieutenants”), which carries out the orders. The lieutenants have the role of execution, but in turn subordinate other elements of the network, such as “hosts” (persons who manage spaces used by the network for storage, secret meetings, hiding documents or goods, etc.), carriers (in smuggling operations, drug and human

trafficking), accountants, etc. An organized crime network also has a protective level. This level aims at penetrating and infiltrating the administrative and law enforcement institutions: customs, tax, police, prosecutor's offices and justice (Pintilei, 2016).

With regard to cross-border organized crime, this is a form of organized crime, in the sense that organized crime has become global and has acquired macroeconomic proportions, and relations between organized crime networks have become increasingly sophisticated and cross-border. Organized cross border crime is any serious criminal act with a cross-border dimension committed by certain members of criminal groups in order to achieve their goals, to maximize the profits obtained from illegal activities (Lefter, 2014, p.36).

There are many definitions for organized cross border crime, too. The Palermo Convention, the main international legal instrument aimed at combating and preventing cross-border organized crime, does not provide a definition of this phenomenon. Consequently, unitary legislation at global level has left it to the discretion of each country to define cross-border crime and, subsequently, to draw up normative acts aimed at criminalizing these illegal actions (Lefter, 2014).

Some experts (Makarenko, 2003; Shelley and Picarelli, 2005) consider that organized cross-border crime (represented, in particular, money laundering, cybercrime or human trafficking) represent forms of the terrorist phenomenon. According to EU SOCTA (2017), the main forms of manifestation of organized cross-border crime are: computer crime, drug production, trafficking and distribution, illegal introduction of migrants, organized crime against heritage, human trafficking, firearms trafficking, cross-border VAT fraud and offenses against the environment. Many of these are also in the priorities of action of organized crime groups, which proves, once again, that organized crime and organized cross-border crime are intertwined (EU SOCTA, 2017).

There are many difficulties in identifying forms and trends of both cross-border crime and organized crime. One obstacle is given by the available data, which are few and characterized by large "shadow areas" of unreported or undetected crimes. Despite the lack of precise figures on the number, impact and costs of organized crime, it is generally accepted that the percentage of offenses or prosecutions made public indicates the measure of police efficiency and effectiveness rather than a measure of the scope and objective purpose of a type of crime. In order to be able to establish trends in cross-border organized crime, it is necessary to combine official resources, academic resources, as well as other resources from investigative journalism and civil society.

The perpetuation of the two phenomena leads to the destruction of the principles of organization of society in the state. One of the major effects of a high level of organized crime and the actions of cross-border crime groups is the loss of public confidence in the role and effectiveness of state institutions and the development of the belief that justice and individual protection can be found in those who fundamentally alter state institutions, organized crime networks and cross-border crime.

At regional level, the EU has been particularly active in recent years designing strategies to combat organized crime and cross-border organized crime. Thus, efforts to abolish so-called border controls have intensified Schengen countries, which have created concern that cross-border crime in EU would become very easy (Vermeulen, 2002).

The opening of borders in the region has facilitated the movement of people, goods and capital. EU SOCTA (2017) highlights the fact that organized crime and cross-border crime inside the EU involves people from over 180 countries, who reside inside or outside the

EU, 40% of the suspected persons are not citizens of the Member States. The main trafficking routes of organized crime that pose a threat originate outside the EU (in particular, the former Soviet space).

Regarding Romania, organized crime groups are not essentially differentiated, as a way of organization and action, from regional/international ones. However, these entities have some specific characteristics: they have a specialization and act on certain criminal segments, the way of organization is mainly of cell type, operates in predetermined geographical areas, “marking its territory”, they are always looking for new countries where they can carry out their criminal activities, they have permanent concerns in identifying new modes of operation, they have “flexibility” in terms of reorientation towards new criminal spheres, uses the financial products obtained to carry out new criminal activities, money obtained from illicit actions is “laundered” and reinvested in legal activities, easily recruit new members who are introduced to the group structure to replace the old ones.

Romanian organized groups are known mainly for their activities in the field of human trafficking, cybercrime, and drug trafficking. Romania is also included in the drug trafficking route, becoming a territory for drug storage, delivery, and consumption. Trafficking methods are changing and adapting rapidly, thus testing the responsiveness of the judicial control system for this type of crime. Unfortunately, this hypothesis emerges from most studies conducted on this topic in recent years by European and Romanian institutions. The effects of organized crime and cross-border crime (especially those originating in the former Soviet Union) on Romania have had major effects on the economy. Cristea (2018) considers that organized crime and cross border organized crime have determined a low level of trust in institutions. Along these lines, in order to gain confidence in the institutions, the measures adopted were oriented primarily towards preventing and combating this phenomenon. The main methods implemented were: 1. Measures to increase the transparency of institutions with national security responsibilities; 2. Informing the population about the measures already provided for by the legislative framework, as well as identifying ways to ensure better implementation of the legislation on cooperation between institutions; 3. Measures to improve the mechanisms for political representation of citizens in order to reduce the chances of certain categories of citizens becoming involved in illegal actions and to increase the level of trust in political institutions with national security responsibilities; 4. The public declarations of the Romanian decision-makers by which Romania engages in the international effort to combat any form of terrorism.

The membership of the North Atlantic Alliance, as well as the complex process of integration in the EU offered our country an enormous chance to align its democracy with Western countries and increase its economy to the standards of developed countries. Romania had to harmonize its legislation on combating organized crime and cross-border crime, including creating the necessary regulatory framework for new institutions specialized in combating this phenomenon (Law no. 39/21.01.2003 on preventing and combating organized crime, Government Decision no. 1082/08.07.2004 on the establishment of the National Council for Crime Prevention, Law no. 508/26.11.2004 on the establishment of Directorate for the Investigation of Organized Crime and Terrorism/DIICOT, Government Decision no. 1171/29.09.2005 by which the National Strategy for Combating Organized Crime was adopted) and to build (in some situations) or modernize (in other situations) its institutional structure. Although important steps have been taken at all levels, there is still room for improvements in designing a unitary strategy to combat organized crime and cross-border crime. The success of the Romanian state in

combating this phenomenon depends largely on how institutions with responsibilities at this level (DIICOT, Romanian Intelligence Service (SRI), Inspectorate General of Romanian Police - Direction of Combating Organized Crime/IGPR-DCCO, External Intelligence Service (SIE), Protection and Guard Service (SPP) and Special Telecommunications Service (STS)) are coordinated.

A special importance for the development of organized cross border crime in our country is the Romanian's geographical position (east border of the European Union). Given the position, cross-border crime groups in the region have speculated on large price differences for some excisable products and have developed their smuggling activities. The land border with non-EU countries is an opportunity for criminal groups involved in cigarette and alcohol smuggling. The opening of countries in the region to the Black Sea is also used by organized cross border crime networks to smuggle counterfeit products from Asia. At the same time, the free zone of the Danube is exploited for smuggling of petroleum products which are subsequently capitalized with false documents (Spiridon, 2016).

### **3. Research Methodology**

This research employed a panel of experts consultation. The experts were recruited from specialists working in representative institutions, responsible to prevent and combat organized crime. An email with the invitation to participate on a discussion on the topic involving organized crime and cross border crime was sent to 50 persons selected from a database with which SRI collaborates institutionally. The experts were asked to complete a questionnaire entitled "Cross-border organized crime. Forms, evolution and its impact on regional economic development", which aimed to obtain their opinion regarding the following objectives: the scale of the phenomenon in Romania, the vulnerabilities induced by the organized cross border crime in our country, what are the factors that influence the development of OCBC, the necessary legislative changes and public policies that should be implemented to combat OCBC, to support the function of designated institutions and to foster the institutional cooperation for combating organized cross-border crime. 21 out of 50 experts responded to the request (shown in Table no. 1). The research started in August 2020 (with the email invitation to participate to the study) and ended in November 2020, when the final questionnaire was received.

The questions have been interpreted using "paper & pencil" methods (Björk and Kauppinen-Räsänen, 2012), as the answers were rather short and the number of responses was not too large.

This research is a qualitative one and the sample is not representative for all the experts active in the field of OCBC. However, the opinions expressed by the 21 experts that have been part in this research can be a starting point for more elaborate research and are very valuable for a general perspective on the phenomenon of OCBC.

**Table 1. Experts participating in the research**

Institution	Function/Position	Number of experts
SRI (Romanian Secret Service)	officer	6
DIICOT (Directorate for the Investigation of Organized Crime and Terrorism)	officer	3
STS (Special Telecommunications Service)	officer	2
IGPR-DCCO (The General Inspectorate of Romanian Police-Directorate for Combating Organized Crime)	officer	3
University "Carol I"	professor	2
ULIM (Free International University of Moldova)	professor	1
Bar Association Olt	lawyer	2
Court Slatina	judge	1
Court Râmnicu Vâlcea	judge	1

Source: author's work based on experts' answers

The questions that substantiated this research were structured on 3 themes: 1. The characteristics of the phenomenon of organized cross-border crime in Romania; 2. The legislation adopted by the competent Romanian institutions to combat the phenomenon; 3: Functioning and institutional cooperation. The correlation between the themes and the research objectives are presented in *Table 2*.

**Table 2. Research themes and objectives**

THEMES	OBJECTIVES Experts' opinion on:
1. The characteristics of the phenomenon of organized crime and cross-border crime in Romania.	- the scale of organized cross-border crime; - the vulnerabilities induced by organized cross border crime on the Romanian economy; - the factors influencing the development of organized cross-border crime.
2. The legislation adopted by the competent Romanian institutions to combat the phenomenon.	- the legislative and public policies change necessary to combat the phenomenon
3. Functioning and institutional cooperation.	- the functionality and institutional cooperation in the fight against organized cross border crime.

Source: author's work based on experts' answers

## 4. Findings and Discussion

The **first theme** ("The characteristics of the phenomenon of organized cross border crime in Romania") included the following questions:

*1.1. How is the degree of risk perceived by the institution you represent, regarding the manifestation of the organized cross border crime in Romania?*

To this question, experts agreed that there is a permanent concern regarding OCBC proliferation. 8 out of 21 experts consider that the risk generated by the perpetuation of this phenomenon has an increasing impact at the macroeconomic level, and 6 out of 21 consider that this threat is important, and the resources allocated by the institutions they work for are accordingly. 4 out of 21 experts consider that the fight against organized cross border crime is included in Romania's information priorities, and 2 out of 21 (both SRI officers) believe that risks should be permanently and constantly assessed.

1.2. *What do you consider to be the forms of this type of organized crimes present in our country, affecting national security?*

To this question the situation is presented according to the following table (Table 3). Illegal activities are the most encountered form, followed by human trafficking and money laundry.

**Table 3. Forms of the organized cross border crime present in Romania**

Illegal economic activities	14 experts out of 21
Trafficking in human beings and migrants	11 experts out of 21
Money laundering	10 experts out of 21
Smuggling	9 experts out of 21
Cyber attack	7 experts out of 21
International drug trafficking	7 experts out of 21
Skimming	5 experts out of 21

Source: author's work based on experts' answers

1.3. *What are the vulnerabilities of Romania in preventing and combating this organized form of crime?*

Most experts believe (12 out of 21) that "allocation of resources for prevention activities (anticipatory)" and "non-eradication of corruption that allowed the penetration of organized crime structures" are the main vulnerabilities of the Romanian state". 4 out of 21 considered "non-adaptation of the control tools to the dynamics of organized crime actions" and "the legislative vacuum in combating this phenomenon" would be the main dysfunctions of the Romanian state.

1.4. *Does the perpetuation and intensification of this phenomenon influence the decision-making capacity of the Romanian institutions? If so, how?*

The unanimous answer was YES, experts indicating that organized cross border crime influence the decision-making capacity. The experts offered the following reasons: "the need to gain new knowledge to prevent and combat the phenomenon" (10 out of 21), "identifying officials who have been corrupted by the organized cross border crime groups" (6 out of 21), "constantly adapting and amending legislation in field" (3 out of 21) and 2 answers "allocation of new resources (logistical, human and financial)". It results that experts suggest that the opinion of experts suggest that there is a problem in the efficiency of resource allocation that influence the decision making capacity in fighting against organized cross border crime.

1.5. *What difficulties do you encounter in identifying organized cross border crime actions that affect Romania?*

The difficulties identified by experts are presented in the Table 4. Most of the experts acknowledge that among the most difficult is to keep the path with the dynamic of OCBC actions, followed by the permanent specialization of these networks.

**Table 4. Difficulties in identifying organized cross border crime actions affecting Romania**

Type of difficulty	Number of experts mentioning the difficulty
The dynamics of organized cross border crime actions	11 experts out of 21
Specialization/professionalization of members of crime networks	10 experts out of 21
Permanent technology changes	8 experts out of 21
Subjective interpretation of criminal law	6 experts out of 21
Lack of interstate judicial cooperation	6 experts out of 21
Transformation of classic organized crime actions into some hybrids (difficult to identify)	4 experts out of 21
Corruption "officials who have been corrupted by organized cross border crime groups"	4 experts out of 21

Source: author's work based on experts' answers

#### 1.6. What do you consider to be the main sources of funding that sustain this phenomenon?

The vast majority of experts consider that "economic crimes (tax evasion, money laundering, customs fraud)" and smuggling of highly excisable products (alcohol, tobacco, etc.) are the main sources of funding for organized cross border crime. Very close, experts mentioned, as sources of funding, exploitation of and trafficking in human beings (7 out of 21) and international drug trafficking (5 out of 21).

#### 1.7. What is the role of technological developments in the evolution of cross-border organized crime actions and networks?

The answers to this question led to four major roles technology plays in the development of OCBC: (i) easy access to develop illegal activities; (ii) "an increase of possibilities to hide and destroy relevant evidence" and (iii) "encourage rapid transactions and rapid transfer of illicit capital generated" and (iv) "generating new types of crime (such as cybercrime)".

The **second theme** ("The legislation adopted by the competent Romanian institutions to combat the phenomenon") was substantiated by the following question:

#### 2.1. "What should be changed in terms of legislation and public policies to mitigate this phenomenon?"

The answers given by the experts underlined the necessity to adopt laws that are easy to be implemented ("the adoption of effective laws and the simplification of procedures for amending legislation" - 6 out of 21 experts), a better protection of data and of information in order to make the access to these data more difficult for the organized cross border crime organizations ("creating an appropriate legal framework to guarantee data protection and the right to privacy" - 5 out of 21 experts), increasing the professionalism and the integrity of persons in charge for the investigation of organized crime activities (3 out of 21 experts), "developing the cooperation between competent institutions" and "the adoption of anti-mafia laws, similar to the one in Italy" (2 out of 21 experts). It is interesting the underline offered by one expert (DIICOT), who insisted on the importance of integrity of the officials and mentioned that there are cases when those responsible with the fight against organized crime are members of these networks or facilitate the activities of these networks.

For **the third theme**, "Functioning and institutional cooperation", the experts were asked to answer the following two questions:



*3.1. Do you consider that the activity of the Romanian institutions contributes to the reduction of the actions developed by the organized cross border crime?*

The answer was a resounding YES. The arguments sustaining the affirmative answer flow from "the Romanian state has institutions specialized in combating organized cross border crime" (12 out of 21), and "the cooperation between the authorized services and structures works" (4 out of 21) to "the answer is Yes, and it is sustained by the results recognized at both national and European level" (3 out of 21).

There were two experts who considered that the Romanian institutions could contribute to a greater extent to the reduction of these actions if that it would be a clearer and punctual legislation, meaning less bureaucracy, or harsher punishments for members of cross-border organized crime groups. These experts underlined, also, the importance of selecting people working in these institutions, their skills, and their ethical standards.

*3.2. How does the perpetuation of this phenomenon influence the image of Romania and the economic development of Romania and countries in the region?*

The answers to this question revealed what the literature mentions as consequences the organized cross border crime has on development: "determines the diminishing of the foreign investors" (6 out of 21 experts), "leads to growth of the distrust in our country" (5 out of 21 experts), "leads to the deterioration of the bilateral relations with the states where this phenomenon is exported", "leads to the impossibility of creating a secure business climate in Romania and in the region" (expressed by 4 experts).

A very critical opinion was expressed by an academic (professor at ULIM): "I may call the incapability of state authorities to control the phenomenon, and this incapability and inefficiency affects economic and social development and leads to increased tax evasion and the underground economy".

## **5. Conclusion**

Romania will continue to be a territory preferred by organized cross border crime networks for money laundering, gambling, loans to companies through banks in tax havens, and many other activities. All this fuels the underground economy, which is growing and undermines the resources the Romanian state might spent on public interests, increase the mistrust in public institutions and affect the image of the country. There is a permanent race between organized crimes novelties and governmental efforts to minimize the phenomenon. In many situations, organized crime seems to be better prepared and better equipped. Romanian is still vulnerable, according to experts, in fighting against corruption (which is a proper environment for organized crime, in general) and in allocating resources to the most efficient way for intervention against organized cross border crime (and not only). The study concluded that, according to experts, the most important factors influencing the development of organized cross border crime are access to the means and methods of carrying out illegal activities, existence of large amounts of illegal source transfers, the evolution of new technologies and payment methods.

One effective way experts identified to fight against OCBC is the need to adopt effective laws and simplified procedures put enforce the law. The institutional framework responsible to manage the OCBC is well structured, according to experts. However, any

improvements in fostering institutional cooperation are all the time very welcome. To keep up with the OCBC is a challenge itself, therefore the institutions should be dynamic and well connected to the European and other countries counterparts.

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