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Organised Crime in the Czech Republic

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1. Information on the Institute of Criminology and Social Prevention (ICSP)

The Institute of Criminology and Social Prevention is a research institution under the authority of the Ministry of Justice of the Czech Republic. It was established as an expert body for the former Attorney General's Office and the Ministries of Justice and Interior in 1960. Shortly afterwards it became a research institute of the Attorney General's Office called the Research Institute of Criminology. The present name was accepted in 1990. In 1994 the ICSP passed under the authority of the Ministry of Justice of the Czech Republic. The activities of the ICSP are financed from the state budget after being consulted by the Governmental Council for Science and Research and some research work has been co-financed by grants and by sources from abroad. The research programme is authorised by the Ministry of Justice.

ICSP research work is targeted on the problems of crime and crime control, social pathology and criminal policies, justice system, effectiveness of some legal instruments and penology.

Research is based on a so-called medium-term plan of research tasks; the current plan covers the period from 2008 to 2011. One of the current research projects deals with serious crime including organised crime.

The results of research projects have been published in the printed series of the ICSP and on the respective website.

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2. Organised crime in the Czech Republic

2.1. Development and conditions

Under the conditions of the previous regime before the year 1989 the problem of organised crime was not so remarkable in the Czech Republic (or in the Czechoslovak Socialist Republic). The former economic, political and power model and the relative isolation from the free world were not favourable for incidence of classical forms of organised crime on a broader scale. Traditional organised crime activities (racketeering, drug trafficking, trafficking in human beings and arms, thefts of expensive cars, pornobusiness etc.) were too risky due to the totalitarian police regime and not so lucrative because of a very limited market for selling the illegal goods and services. That is why we cannot speak about the classical organised crime and about extensive criminal organisations of Mafia-type before 1989, neither domestic nor international ones.

On the other side, even in the one-time CSSR there were some manifestations of organised criminal activities (as e.g. illegal change of foreign currency, organising of prostitution etc.) including contacts with law enforcement authorities, state and communist party officials. But they were established on a basis not quite comparable with the countries characterised by a different social economic system, their sphere of action was limited and they operated in relative isolation and without the international element. They did not develop into extensive criminal organisations.

The so-called shadow economy in the former CSSR also did not reach the extent comparable e.g. with the former USSR speaking of the level of organisation and the importance of economic and political influence. Under the conditions of an economy in deficit managed by the state the shadow economy got mostly either a form of mutual exchange of advantages, lacking goods and services which were available only for some professions („networks of mutual favours“) or the misuse of state property for personal purposes. This phenomenon was very common and widespread, but it got rather a form of many minor deeds (yet sometimes resulting in gathering remarkable property which of course could not be manifested) than illegal or semi-legal enterprising on a large scale.

After 1989 our society has undergone a deep conversion. This conversion was „conditio sine qua non“ to overcome the period of stagnation and isolation and to open up the space for establishing the democratic society and market economy. Nevertheless, this development brought also some risky factors that must be taken into account.

The fundamental economic transformation was connected with the broad privatisation process of the previous state property and subsequently with enormous property shifting, and with a rapid formation of liberal market in the frame of situation of critical lack of capital. The economy broadly opened up. The motto of the transformation process was that it is rather necessary to ensure its speed than to slow it down by excessive control and application of strict legal provisions. It meant that the space for diverse illegal activities opened not only due to the economic transformation itself, due to the objective economic situation and due to missing legislation and unready repressive authorities, but also due to the insufficient control and the underestimation of a strict legal framework for this process.

The open economy and free and open society needs the open borders; therefore the restrictions concerning the movement of people, goods and money had to be abolished. It is obvious that the CSFR or later Czech Republic is conveniently geographically situated between the states of the European Union on the one side and the states of the former socialist block on the other side. The Czech territory is well accessible from the countries of the former Soviet Union and from the Balkans; there is a good possibility for transit, for the mobility of goods, capital and people in the framework of the legal but the illegal economy as well. Consequently there is a good convenience to misuse the territory of our state as a starting or transit point for expanding criminal activities. At the same time the Czech Republic - as well as the whole European continent - have been afflicted by a stream of migration including the illegal one that stimulated the growth of some manifestations of organised crime.

2.2. Basic features

In the Czech Republic (and before that in the former Czech and Slovak Republics) the phenomenon of organised crime has been a topic of discussion since the beginning of the 1990s. This was the time from when the experts, and later also the lay public gradually became aware of the penetration of this manner of committing crime. It was understood as a relatively new phenomenon in the domestic crime scene. At first, organised crime was commonly conceived as something imported from outside and it was thus associated with the influx of criminal groups from abroad, chiefly from the Balkans, the states of the former Soviet Union, Italy, but also from other countries such as China and some of the Arab states.

The penetration of foreign organisations undoubtedly existed. But at the same time the first manifestations of “domestic” organised crime were rather underestimated. With regard to “domestic” organised crime, a certain belief prevailed that organised crime is something foreign to the Czech environment, including the criminal environment. The risk

that domestic forms of organised crime might imply and their development thus lacked due attention. This was also related to the ambiguous concept of organised crime and the missing legal definition of this phenomenon. In any case, certain criminal activities of Czech offenders, which clearly bore the typical characteristics of organised crime, such as transactions with light heating oils in the first half of the nineties, were not viewed as such. This is despite the fact that this criminal activity showed clear signs of a high degree of organisation: the structure of groups of offenders, including the division of activities; the aim at profit; and the large profits gained by the offenders together with the use of violence. The amount of tax evasion, or the damage caused to the state, was estimated at CZK 3.7 billion. In 1993 and 1994, the press reported 176 investigated firms, 13 murders, and 17 missing persons in connection with this form of criminal activity. Nevertheless, these cases were presented as economic, not as organised crime.²

Now, it is clear and documented that there are some groups composed of Czech citizens which manifest some features of organised crime (these groups develop a systematic, planned and organised criminal activity in order to gain maximal profits and we find inside them a certain level of structured and hierarchical organisation). These groups are not very large in size and their criminal activities are rather specialised than versatile. They develop their activities mostly in organising illegal migration, drug trafficking, thefts and smuggling of stolen cars but also violent crime such as robbery. There are also groups that develop activities, which could be classified as economic or financial crime (yet there still remains the definition and conceptual problem whether such activities should be classified as organised crime or as sophisticated form of the so-called white-collar crime). Some Czech organised criminal groups have been organising prostitution, pornography, trafficking in women and some other forms.

According to the experts, the members of Czech organised groups originate from two main sources: from people with no previous criminal record, that means from so far blameless and respectable people and from people who were engaged in the so-called shadow economy even before 1989. Younger men prevail among them. These findings correspond to the data on the criminal situation in general.

Besides the Czech groups we find of course also groups composed of both Czechs and foreigners (in these groups Czechs have usually not been in leading positions) and groups completely composed of foreigners.

² Baloun, V., Scheinost, M., Economy and Crime in the Society in Transition: The Czech Republic Case. In: van Duyne, P., von Lampe, K., Passas, N., eds., *Upperworld and Underworld in Cross-Border Crime*, 43-60. Nijmegen: Wolf Legal Publishers 2002, pp. 48-51. Also cf. Lorencová, J., Večeř, J., *Krvavé oleje: Můj přítel vrah (Bloody Oils: My Friend the Murderer)* Brno, Jan Krystek, 2006

2.3. Example

A relatively developed structure and penetration of law enforcement authorities are evident in the following case. This group provided the illegal entry of migrants to the Czech Republic, forged and fraudulently altered documents and the subsequent illegal transit of migrants across the state border to Germany.

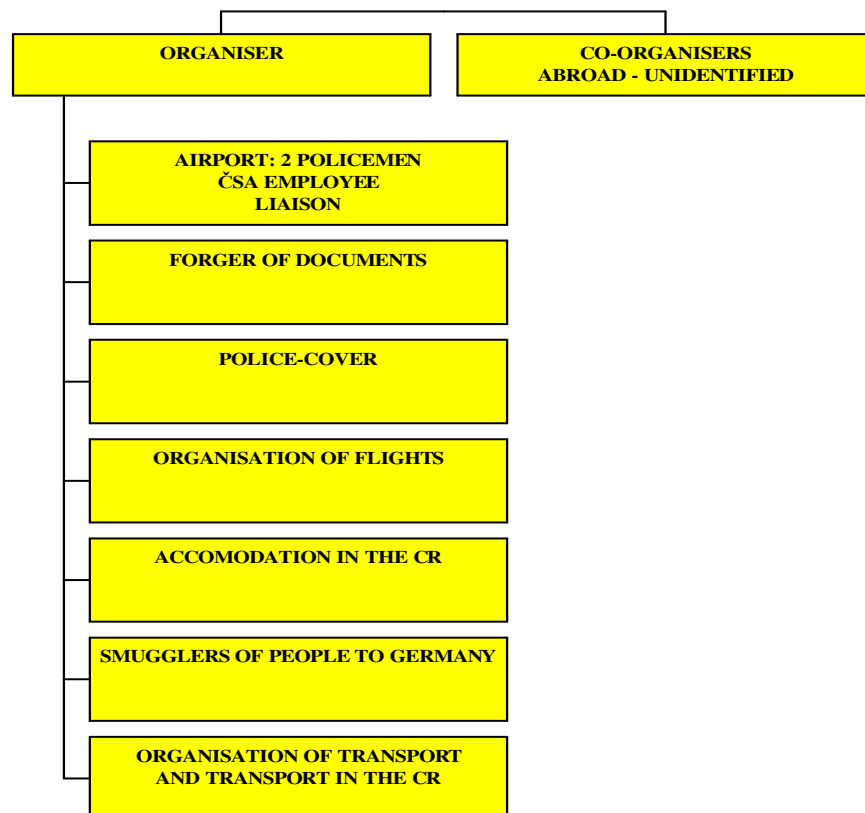
Members of this group were prosecuted pursuant the following articles of the Czech Penal Code:

Section 163a - Participation in criminal conspiracy

Section 171a - Illegal crossing of the state border

Section 158 - Abuse of a public official's authority

Section 185 - Illegal possession of firearms



In this group the key figure was a foreign national from Libya, who in agreement with foreign unidentified organisers arranged the flights of migrants from Asia to Ruzyne airport. Two other foreigners (both from Syria together with the wife of one of them – a Czech) were

in charge of the actual organisation of flights to Prague. Illegal entry to the Czech Republic was handled at the airport by two members of the Foreigners' Police together with an employee of ČSA (Czech Airlines), while the liaison and hand-over of money (the migrants paid USD 2.000 per person) was arranged by the wife of one of these policemen. A policeman from another department of the Czech Police was responsible for covering up for the group. A Czech national provided the foreigners with forged and fraudulently altered documents. At a lower level of the group operated members that ensured accommodation in the Czech Republic (two members), smuggling of people across the border to Germany (two) and transport carriers together with the transport organiser (five); all of these were Czech citizens.

This case demonstrates a highly developed division of labour and comprehensive scale of "services" provided to the migrants. It is necessary to notice a serious fact, i.e. the active involvement of several police officers (one of them was even from a specialised department of the Czech Police), and the division of tasks between them – apart from illegal entry to the Czech Republic there was also covering up for the group at a higher level. Persons with previous convictions in criminal records appeared in five cases in this group, but they always operated at a lower level (transport carriers, accommodation providers, smugglers).

2.4. Response to the problem of organised crime

The risk that organised crime represents came to be understood gradually as more information was brought to the public by law enforcement bodies, as well as by criminological research. Media influence and public concern (even if often provoked by the media through sensational articles and superficial information) also played a role in raising awareness, as did the pressure from the international community, which in the mid-1990s became intensively concerned by organised crime, at that time designated as one of the global threats to the contemporary world. This international effort resulted in the adoption of several important documents (for example the Global Action Plan to Fight International Organised Crime, adopted at the international conference in Naples in 1994), and their ensuing commitments, which the Czech Republic was obliged to set about fulfilling (for example the Pre-Accession Pact on Organised Crime between European Union (EU) Member States and the Candidate Countries of Central and Eastern Europe and Cyprus, based on the EU Action Plan to Fight Organised Crime from 1997 and signed by the Czech Republic in 1998, and also the Council of Europe Convention on the Laundering, Search, Seizure and Confiscation

of the Proceeds from Crime signed by the Czech Republic in 1995). The first government concept of fight against organised crime was adopted in 1996 and subsequently updated in 1997 and in 2000. The Czech Government approved the new Concept to Fight Organised Crime in 2008.³

In its first phase, the approach to organised crime in the Czech Republic focused on formulating the necessary legal instruments and on measures designed to prevent its penetration from abroad. To begin with, criminal sanctions were tightened for crimes committed in an organised group for selected types of crime, and some new types of crime were specified (for example helping people to cross the state border illegally, the illegal production and possession of radioactive materials, procuring and soliciting prostitution, trafficking in children and the like).

There were also certain options enabling the criminal prosecution of organised crime (the temporary suspension of initiation of criminal prosecution, the replacement of mail consignments, the option in criminal proceedings to request data that are usually subject to banking secrecy, the provisional seizure of assets or their confiscation at the request of a foreign court for legal assistance).

Important changes to the Criminal Code, Criminal Procedure Code and the Czech Police Act were adopted in 1995 under Act No. 152/1995 Coll. Certain new provisions were incorporated in the Criminal Code, for example the crime of participation in a criminal conspiracy, provisions on effective repentance, immunity from prosecution for undercover agents, the possibility of sentencing the perpetrator of a crime committed to the benefit of a criminal conspiracy, and above all, the legal definition of criminal conspiracy (Section 89 paragraph 17 of the Criminal Code). In order to improve protection for persons involved in criminal proceedings against organised crime the Criminal Code was supplemented by the provision on the anonymous witness, thereby making it possible to conceal their actual identity, but without special witness-protection programmes. The possibility of interception of communications had already been incorporated in the Criminal Procedure Code in 1990; in 1995, this provision was partly amended.

The amendment to the Czech Police Act expanded the scope of special police investigation procedures and means by including the use of undercover agents and the pretence transfer of assets.

Act No. 61/1996 Coll., on measures against the legalisation of the proceeds from crime, was also adopted. Two criminal law instruments should be mentioned in connection with this Act: concealing the origin of assets under the Criminal Code and the possibility of freezing funds on a bank account under the Criminal Procedure Code (if evidence indicates

³ Plan for the fight against organised crime, Czech Government Resolution no. 64/2008 of 23 January 2008

that the funds on the account either will or were be used in committing a crime or represent profit from criminal activity).

After some discussion on the effectiveness of these instruments, amendments were made in and after 2001 and new provisions were introduced, namely the special Act No. 137/2001 Coll., on the protection of witnesses. The amendment to the Criminal Procedure Code with effect from 1 January 2002, introduced certain provisions making it possible to use information obtained through police operational means as evidence in criminal proceedings (under regulated conditions).

It is evident that the process of adapting the relevant Czech legal norms has not ended with these latest amendments; nevertheless, it may be stated that Czech legislation has been harmonised in this regard with international standards. Ways will obviously be sought to improve the effectiveness of the legal measures used to counter organised crime; the remaining task is to ratify the UN Convention on Combating Organised Crime, which the Czech Republic signed and will probably ratify after finalising the issue of criminal or administrative liability of legal entities (administrative liability is the solution most likely to be chosen)⁴.

⁴ See annex to the Czech Government Resolution no. 64/2008, Plan of tasks to implement the Concept of the fight against organised crime, task no. 8: Submission of the principles of the Act to introduce administrative liability of legal entities