EUROPEAN STUDIES UNIVERSITY OF MOLDOVA

DOCTORAL SCHOOL OF LEGAL SCIENCES AND INTERNATIONAL RELATIONS

As a manuscript
U.D.C.:343.1+343.3(043.2)

Maxim GROPA

CRIMINAL PROCEDURE REGULATIONS REGARDING PRELIMINARY ACTIONS AND CRIMINAL PROSECUTION IN THE CASE OF ORGANIZED CRIME OFFENCES

Doctoral thesis abstract
Specialty: 554.03 - Criminal Procedural Law

CHISINAU, 2024

The thesis was developed within the Doctoral School of „Legal Sciences and International Relations of the University of European Studies of Moldova".

PhD Supervisor:
PÂNTEA Andrei, Doctor of Law, associate professor, „Ștefan cel Mare"Academy.

Doctoral Committee:

1. **President of the Committee- SEDLEȚCHI Iurie**, Doctor of Law, university professor, University of European Studies of Moldova;
2. **Doctoral Supervisor - PÂNTEA Andrei**, Doctor of Law, associate professor, „Ştefan cel Mare" Academy;
3. **Official reference - CUȘNIR Valeriu**, Doctor habilitat in Law, university professor, Institute of Legal, Political and Sociological Research;
4. **Official reference - VÎZDOAGĂ Tatiana**, Doctor of Law, associate professor, State University of Moldova;
5. **Official reference - ROMAN Dumitru,** Doctor of Law, associate professor, State University of Moldova.

The public defence will take place on May 17, 2024 at 12:00 AM, during the meeting of the specialized scientific council at the University of European Studies of Moldova, address: 2/1 Iablocikin Street, Chisinau, Republic of Moldova, room 200A.
The doctoral thesis and the summary can be consulted at the National Library of the Republic of Moldova, the Library of the University of European Studies of Moldova and on the website of the National Agency for Quality Assurance in Education and Research: (http://cnaa.md).

The abstract was sent on 04 April 2024.

President of the Doctoral Committee:
SEDLEȚCHI Iurie, Ph.D., univ. prof.., _____
Doctoral Supervisor:
PÂNTEA Andrei, Ph.D., assoc. prof. _____
Author:
GROPA Maxim _____

TABLE OF CONTENTS:

1. CONCEPTUAL FRAMEWORK OF THE RESEARCH

Relevance and Significance of the Research Topic. Organized crime represents an antisocial phenomenon, which using globalization as a runway, has reached a development that endangers both national and world security. Globalization and open borders have contributed to the growth of this scourge on a global scale, providing fertile ground for the emergence and growth of various forms of trafficking, such as arms, humans, drug etc. The technological and scientific development, coupled with the organized crime's utilization of advanced technologies and, not least, the most competent human resources, has led to its dominance in many spheres of human activity.

In an overall perspective, organized crime exists as a parallel world. Like a parasite, it absorbs dividends and proceeds from all activities that, on the one hand, are profitable, but on the other hand, are carried out illegally at the limit of legality. Where there is demand for such activities, there is also organized crime.

The main goal of organized crime is economic profits obtained illegally and dominance. The trend of today's organized crime primarily extends to public resources, which is why its development poses a concern to society. Corruption of governments, politicians, involvement through companies controlled by them in various state-sponsored economic projects are the main trends of organized crime, not to mention classic criminal activities. Big money, quick and indirect means of obtaining it, unites the organized criminal world.

The success of criminal organizations is due to their hierarchical organization, strict adherence to unwritten criminal laws, and adherence to criminal traditions. Moreover, obtaining criminal goals through any means, including violence and coercion, up to the elimination of inconvenient individuals, strengthens the influence of these organizations, instilling fear in society.

The framing of the theme in national and international concerns. Organized crime is a major threat to the security of citizens across the EU. More and more organized crime groups operate on the territory of the Union. They generate huge profits and use them to invest in other criminal activities or infiltrate the legal economy. Transnational threats and the ever-evolving modes of operation of organized crime groups operating offline and online require a coordinated, better-targeted and adapted response. Although the frontline in the fight against organized crime is national authorities operating on the ground, action at Union level and global partnerships are essential to ensure effective cooperation and exchange of data, information and knowledge between national authorities, supported by a common framework of criminal law and effective

financial means. Furthermore, organized crime is emblematic of the nexus between internal and external security. To address this transnational challenge, an international commitment is needed in terms of combating organized crime, including additional measures to develop partnerships and cooperation with countries in the immediate neighborhood and beyond, objectives stipulated both in the EU Strategy to combat of organized crime 2021-2025,[1] as well as in the National Program for preventing and combating crime for the years 2022-2025.[7]

Based on the latest reports on the implementation of the Association Agreement between the Republic of Moldova and the EU, the Government was urged to intensify its fight against corruption, money laundering, arms smuggling, organized crime and their dismantling, including human trafficking . Moreover, the Association Agreement between the Republic of Moldova and the EU outlines a series of priorities aimed at preventing and combating crime, namely:

- by developing a new and comprehensive policy document on preventing and cooperation with Europol, Eurojust and other international partners in terms of investigating organized crime groups, identifying, freezing and confiscating assets generated by organized crime and located abroad;

- rationalization to ensure the most efficient distribution of powers in the matter of fiscal and economic crimes between the various authorities;

- strengthening the participation of the Moldovan authorities in the Eastern European Organized Crime Analysis Project (EEOC);

- developing the capacities and skills of the Judicial and Forensic Expertise Center in accordance with European standards and good practices at local and national level.[7]

So, organized crime - a parallel world with its social polarization, language, and laws, leadership, and members can only exist in societies where the law does not function, where the criminal takes the place of legality, where society's development is not based on democratic principles, and where corruption and wrongdoing are at home.

Clandestineness and mutual support among criminal organizations in the context of globalization and the acquisition of a transnational character make national tools impossible to prevent and counteract this phenomenon. This circumstance prompted me to identify viable mechanisms for the prevention and combating of organized crime as a result of the research conducted in this work, proposing tools that will contribute to improving the situation in the field, thus contributing to the improvement of the national regulatory framework. This research is also driven by the need to improve judicial practice in investigating organized crime offenses, a study that can serve as a practical and scientific reference in the professional activities of judges, prosecutors, and law enforcement agencies.

The judicial practice of the Republic of Moldova has seen some successes in investigating organized crime offences, materialized in the conviction of the organizer and leader of the criminal organization "Machena" and some leaders of subordinate criminal groups. However, despite this, we continue to witness the harmful activities of the aforementioned criminal organization, which has quickly learned from its mistakes, and its actions are currently much more devastating, diversifying its competencies beyond the territory of the Republic of Moldova by committing various crimes and legalizing criminally obtained income.

The impact on national security and the lack of innovative mechanisms capable of combating this phenomenon make the research area particularly attractive.

The small surface area of the country we live in, low population density, geo-cultural aspects, along with poverty, the existence of territorial areas not controlled by the state, and the constant struggle of political clans directed by the world's major powers and their geopolitical interests contribute to fueling the criminal factor and its development, using it as a mechanism to exert influence and achieve its political, personal, and criminal goals.

It is important that this mode of interaction was identified, establishing that the given phenomenon can only be countered through international instruments, viable due to the impossibility of influencing the progress of investigations carried out at the local level, its coercive mechanisms capable of reacting promptly and in real time, as well as a national procedural legislation perfectly aligned with international standards in this regard.

The added value of this research is provided by the theoretical contributions from which the author drew inspiration, using the opinions and positions of both local and foreign scholars who have researched the subject at hand, namely:

- At the national level, the works of the authors that are worth noting: V. Cuşnir, M. Gheorghiță, Ig. Dolea, Iu. Sedlețchi, A.Pântea, S. Crîjanovschi, D. Roman, T. Vîzdoagă, D. Postovan, S. Pântea, A. Cuciurcă, S. Brînză, S. Doraş, D. Obadă, T. Osoianu, D. Ostavciuc, S. Carp, O. Bejan, V. Ursu, F. Sterschi, Ig. Ciobanu, A. Donciu, M. Braloştiţianu, A. Corîstin, A. Gumenco, V. Jitariuc, V. Telipan, A. Cazacicov, G. Cristea, M. Grama, M. Bodean, V. Stati, R. Cojocaru, D. Sîrcu, A. Pungă, Al. Pareniuc, M. Grama, V.Sîli, O. Balan, V. Bujor, Gh. Gladchi, I. Larii, B. Glavan, C. Nistorescu, A. Mariț, N. Dodescu, L. Spînu (Dumneanu), Ş. Stamatin, A. Spoială, R. Condrat, D. Vasiloi, V. Untilă, L. Boliuh, M. Chirilă, V. Sereda, V.Toncoglaz şi alţii.

- At the international level, a plausible contribution had the authors : V. Şcolinîi, L. Kovesi, I. Tucmuruz, D. Miclea, A. Andreescu, N. Radu, M. Atanasiu, L. Stăncilă, K.V. Putuliko, I.V. Godunov, T. Rodionova, O.D. Juc, V.A. Jbankov, A.V. Tabakov, V.V. Romaniuc, A.V**.** Butîrscaia, A.M. Mirande, C. Klockars, D. Baciu, S. Râdulescu, V. Teodorescu, C. Voicu,

L. Iamandi, N. Ghinea, N. Neagu, Gh. Marcoci, Gh. Mocuţa, C. Olaru, I. Dascălu, C. Ştefan, C. Ţone, M. Surduleac, Gh. Mateuţ, V. Petrescu, E. Ştefăroi, V. Bercheşan, C. Pletea, C. Romano**,** B. Tinebra, G. Centonze, A. Borrelli, G. Ferrajoli, N. Carpov, A.I. Alexandrov, T. Amza, I. Pitulescu, G. Olteanu, A. Iacob, M. Gorunescu, B. Dragomirescu, T. Georgiana, M. Constantinescu, A. Boroi, I. Rusu, Gh. Mateuţ, A.Popa, C. Popa, V. Patriciu, I. Vasiu, G. Şerban, N. Volonciu, Jean Ziegler, S. Ponamareov, I. Crîlov, N. Abdulaeva, A. Metelev, Iu. Alexandrov etc.

The Purpose and Objectives of the Research. The purpose of this work is to conduct a multi-faceted investigation into the institution of organized crime, with a focus on establishing criteria for improving the judicial process related to the investigation of organized crime offenses. This enhancement is driven by the ongoing changes in the modus operandi of criminal organizations and the diversity of manifestations prompted by the continuous development of globalization, as well as its transnational nature. The conclusion that organized crime can only be addressed through international reaction and research instruments necessitates the harmonization of the communal procedural criminal framework and that of countries in the process of accession.

To achieve the stated purpose, the following objectives have been identified:

- the analysis of specialized literature on the topic of investigating organized crime offences;

- the analysis of the preliminary actions and the criminal prosecution actions characteristic of the investigation of organized crime offences;

- improving the activity of planning criminal prosecution actions when investigating organized crime offences;

- the practical solution of the problems faced by law enforcement agencies when applying special investigative and specific measures to prevent and combat organized crime;

- adaptation of specific measures to prevent and combat organized crime to procedural norms in order to improve the legal framework;

- identification of innovative procedural tools in order to prevent and combat organized crime;

- establishing a criminal procedural climate comfortable for the perpetrator who expressed his agreement to collaborate with the criminal investigation body in discovering the entire criminal network;

- identification of procedural gaps in the application of the protection of persons who collaborated with the criminal investigation body;

- establishing the necessary mechanisms to improve the application of international and national legislation in the context of international legal cooperation in criminal matters when investigating organized crime offences;

- the improvement of the normative procedural framework in the compartment subject to research and the elaboration of the proposals of the lex ferenda.

Research Hypothesis. The hypothesis of this research is that the improvement of the legal procedural framework in the examination of reports, the status of investigation officers, special investigative activities, and the protection of witnesses and other participants in criminal proceedings will contribute to the improvement of the judicial process and criminal investigations. This will eliminate bureaucratic aspects of the process and lead to procedural conduct aimed at the objective, comprehensive examination of criminal cases in a reasonable time, with the accumulated evidence meeting legal criteria. The innovative tools proposed in the area of special investigative activities, such as controlled delivery, controlled offense, and security warrants, will effectively contribute to the investigation of organized crime offences. International legal cooperation in criminal matters will identify viable instruments applied in a unified communal procedural system aimed at combating organized crime.

Synthesis of the research methodology and justification of chosen research methods.

To achieve the purpose and objectives of the research, several research methods have been used:

- qualitative method (used as an investigative method that has developed an understanding of the phenomenon of organized crime and the investigative process, in order to identify how people think and feel).
- quantitative method (used to draw conclusions based on logical and statistical observations).
- comparative method (based on the analysis of scientific materials regarding the concepts of organized crime, criminal group/organization, and the study of procedural laws in countries around the world from the perspective of investigating organized crime offences).
- analytical method (includes the argumentation of the issues addressed through the methods of thorough and consistent demonstration).
- historical-legal method (used to study the evolution of the normative framework in relation to the investigation of organized crime offences).
- systemic method (used to determine global elements in relation to the location of the investigation of organized crime offences in the national and international legal system).

- literary interpretation method (used in the study of the syntactic meaning of words, expressions, and terms).
- statistical method (used in the analysis and comparison of the dynamics of organized crime development).
- prospective method (involved in establishing the most optimal ways to improve the national normative framework in the field of investigating organized crime offences).

The research methodology aimed at the analysis and expertise of the current criminal procedural norms, in relation to the legislation of other states, such as Romania, Italy, Ukraine, the Russian Federation, as well as the doctrinal sources in the matter, a fact that contributed to the separation and formulation of some relevant scientific theses.

At the same time, the applied methodology allowed the localization and delimitation of the researched problem, the collection of important data to generate hypotheses that are tested and analyzed in the paper. This helped to take, consequently, the most judicious decision for the proposed case study that will be exposed in the following chapters.

Also, in order to expose the object of the researched topic, the doctrine was combined with the existing practice and the legislative basis, being studied scientific works, publications, and legislative norms.

Scientific Novelty of the Results. This study represents a comprehensive investigation into the theoretical and practical issues related to the investigation of organized crime offences. The scientific novelty and originality of this thesis lie in conducting a doctrinal and practical study of modern methods for investigating organized crime offences, specifying the nature and legal essence of organized crime, highlighting distinctive aspects, and identifying efficient procedural mechanisms for prevention and combating organized crime.

The evolutionary, comparative and legal-criminal research, as well as the personal experience accumulated in the activity of over 18 years of investigating organized criminal offences and those that threaten national security as a prosecutor, allows the submission of some recommendations to improve the national procedural normative framework to the departments:

- examination of the notification about the commission of the crime (preliminary actions/national security warrant);
- planning and execution of criminal investigations;
- codification of procedural provisions regarding the protection of witnesses and other participants in the process;

- authorization and execution of special investigative measures, as well as the enhancement of special investigative activities with new tools such as controlled delivery, controlled offence, and the controlled crime/contravention.

The solved scientific problem consists in the identification of effective and prompt tools for the investigation of organized crime, taking into account the cross-border nature of the investigated phenomenon and the development of global, regional and sub-regional mechanisms to prevent and combat it, by unifying the procedural legislation of the community and the countries in the process of joining the EU in order to remove the impediments to rapid reaction and "borderless" investigation of organized crime offences.

The theoretical importance and practical value of this work are manifested in its well-structured and documented study, offering theoretical and practical solutions for the investigation of organized crime offences. This work highlights current and future issues that may arise in the practice of criminal procedural law application and methods of addressing them.

The applicative value of the research is evident in the presentation of doctrinal material, the identification of procedural issues, and the formulation of practical recommendations for addressing uncertain situations in the investigation of organized crime offences. Additionally, the research presents proposals for modifying legislation in this regard.

The research results, conclusions and definitive recommendations can be used in the activity of practitioners directly involved in the process of preventing and combating organized crime, in the research process for the formation of the doctrinal framework, as well as in the training of students of higher education institutions as didactic material. The proposals for the harmonization of the procedural legislation will be useful for the improvement of the local normative framework.

Approval of research results. The research results were reflected in nine scientific publications and were the subject of discussion in the following national and international conferences:

- International Conference of Doctoral Students in Law. 13th Edition, Timișoara, June 25, 2021;
- International Conference "Promotion of Social and Economic Values in the Context of European Integration." 4th International Conference, December 3-4, 2021, Chisinau, Republic of Moldova;
- International Conference "Promotion of Social and Economic Values in the Context of European Integration." December 2-3 2022, Chisinau, Republic of Moldova;

- International conference "Promotion of Social and Economic Values in the Context of European Integration". Chisinau, December 1-2, 2023, Republic of Moldova 2023;
- Scientific-Practical National Conference "Security Warrant: Current Issues of Interpretation, Legislation, and Practice," Chisinau, 2020;
- Scientific-Practical Conference of Young Researchers "Forms of Collaboration of the Offender with the State," Chisinau, Moldova, April 27, 2021.

The volume and structure of the thesis: basic text 183 pages, annotations in Romanian, English and Russian, list of abbreviations, introduction, four chapters, general conclusions and recommendations, bibliography of 220 titles, statement of responsibility and curriculum vitae of the doctoral student.

Keywords: criminal organization, organized criminal group, organized crime phenomenon, organized crime, controlled infiltration, controlled offence, security warrant, national security.

2. THESIS CONTENT

In its essence, the Introduction represents the "business card" of the paper and the argument of the option for the proposed research topic.

The introduction is presented in the following subsections: 1) the actuality and importance of the topic addressed, 2) the purpose and objectives of the research, 3) the research hypothesis, 4) the synthesis of the research methodology and the justification of the chosen research methods, 5) the scientific novelty of the obtained results, 6) the scientific problem solved, 7) the theoretical importance and the applied value of the work, 8) the approval of the research results, 9) the summary of the thesis sections.

Chapter I, entitled "Conceptual approaches related to the investigation of organized crime offences" includes three paragraphs: 1.1. Analysis of scientific materials from the researched field, carried out in the Republic of Moldova; 1.2. Analysis of scientific materials published on the topic of the work in Romania and other countries; 1.3. Conclusions to Chapter I

The given chapter includes an extensive analysis of the specialized literature in the compartment under research. In the study, tools were used to collect data, formulate and answer questions to reach conclusions through a systematic and theoretical analysis applied to the study of the organized crime investigation.

Using a variety of procedures, the research of the theme is stimulated to find the truth that has not been defined or studied in depth, due to the continuous development of the phenomenon of organized crime, in order to obtain reliable conclusions. Also, in order to expose the object of the researched topic, the doctrine was combined with the existing practice.

Despite the fact that criminology as a whole has accumulated certain empirical and theoretical materials on the problems of combating the activities of criminal organizations, but not enough attention has been paid to the methodology of investigating designated crimes, a number of problems have not yet been developed from a theoretical point of view and normative, although the foundations, without a doubt, have been cemented by the efforts of many researchers in forensic analysis, criminal law and criminal procedure.

At the same time, it should be mentioned that an analysis of scientific sources highlighted the absence of current monographic studies on the problems of organized crime investigation. Also, there are no recommendations for the practical work of prosecutors, law enforcement officers and other law enforcement officials. Thus, without diminishing the importance of existing scientific research, we note that this complex and multifaceted topic is still far from being fully resolved, which underlines its insufficiency and the need to develop the detailed study of this problem.

Modern society, these days, is increasingly threatened by a phenomenon that puts at risk the national security, manifesting under a new concept and having an international spread called organized crime.

This phenomenon, thanks to the internal discipline, based on hierarchical subordination, developed rapidly, dominating the society to a large extent. It is a parallel world, which, thanks to the financial possibilities obtained through criminal means, dominates humanity. This parallel world has its rules/norms, which are not codified, but respected and executed in full by its members, a fact that determines the success in actions of the leaders of criminal organizations. The devotion given is determined by belonging to the ideals of the criminal world, fear, and desire to get rich quickly and without any effort.

Organized crime develops better in poor and developing countries, due to the polarization of society, (poor/rich), the possibility of corrupting the politicians and obtaining dividends by legalizing illegal income in developed countries.

So, we are witnessing the phenomenon of organized crime acquiring a cross-border character, a fact that endangers the normal development of states at the international level, at the same time increasing the members of criminal organizations, whose aim is to undermine state power and obtain illegal financial means or other uses.

Technical-scientific development has determined that organized crime evolves rapidly, having the possibility, thanks to illegally obtained financial resources, to attract the best specialists from different fields in criminal activity, being able to direct the economy, politics, justice and society as a whole.

We attest to the fact that the methods of action are also diversifying, classic violence, for the most part, being changed to social manipulations, manifested through actions that satisfy people's needs, such as human trafficking, drug and weapon trafficking, including the mass and biological destruction, terrorism, money laundering, counterfeiting and placement of false means of payment, smuggling, tax evasion, and corruption at various levels, actions materialized by committing particularly serious and exceptionally serious crimes.

Organized crime is a social phenomenon that manifests itself through the harmful activity of some criminal groups/organizations, with the aim of illegally obtaining economic profits to the detriment of the established constitutional order, using as an instrument the legalization of the criminal product by placing it in the civil circuit.

The analysis of what was reported in Chapter I allows us to state some conclusions related to the researched topic, namely:

1. The phenomenon of organized crime is in continuous development, it manifests itself under a new conception, representing an imminent danger that threatens national security;

2. Organized crime in the context of globalization has become a transnational and cross-border phenomenon;

3. Organized crime acquires an internal force of propagation, through which it tends to expand continuously;

4. Organized crime does not only affect social relations, it strikes, through its tendencies to penetrate social and political institutions, even in the pillars of society, trying to dominate it;

5. Combating the phenomenon of organized crime should be based on prophylaxis and prevention actions;

6. Combating the phenomenon of organized crime can no longer be done by national states, but in integrated global, regional and subregional systems;

7. The approach of a unique international corporate policy regarding personnel specialized in the fight against organized crime, related to training, remuneration, material-technical insurance, protection, etc.;

8. National and international tools to combat cross-border organized crime must offer real-time operating solutions, because cross-border criminal acts take place very quickly, and the coordinators of these networks succeed in introducing the illegal product of crimes into the legal

circuit and thus, sanctioning it is much more difficult, and the removal of all consequences almost impossible.

The examined facts determine some findings, which in fact constitute the basis of our further research, namely:

1. The lack of innovative criminal procedural tools/norms, used both at the preliminary stage of the criminal process and during the criminal prosecution, characteristic of the investigation of organized crime offences and intended to improve the criminal prosecution process, resulting from the danger presented by this phenomenon on national security;

2. The lack of consistency between the provisions of special laws (the Law on the prevention and combating of organized crime, the Law on special investigative activity, the Law on the protection of witnesses and other participants in the criminal process, etc.) with the provisions of the Criminal Procedure Code;

3. The lack of a unique, renewed legislative-practical approach throughout the European space, resulting from the permanent acclimatization of the phenomenon of organized crime with the rigors of the period in which it carries out its harmful activity, has become an impediment in preventing and combating it;

4. The lack of international legal mechanisms, unanimously accepted by all states, relating to the reaction to the commission of the crime of organized crime with a cross-border aspect, the apprehension of criminals and their prosecution, has become an impediment to the investigation of this kind of crimes;

5. Lack of a guide for prosecutors/law enforcement officers, at national and international level, to investigate organized crime offences.

So, the procedural palette of scientific research in the field of criminal procedural regulations of preliminary actions and criminal prosecution in cases of organized crime is vague, which makes the work in question, through its novelty and topicality, able to contribute to the harmonization of legislation and to the realization of the investigation process.

Through this brief presentation, we have tried to highlight that both the normative and the functional framework (of actions) to combat organized crime at the national, regional and international level must be permanently improved as a response to the continuous transformation of the threats generated by this phenomenon. In conclusion, effective cooperation at the national, interdepartmental and international level is the essential, determining element in the activity of preventing and countering cross-border organized crime.[6, p.60]

Chapter II, entitled "Actions preceding the initiation of criminal prosecution in the case of investigation of the organized crime offences" includes four paragraphs: 2.1. General

aspects regarding the actions preceding the initiation of criminal prosecution in the case of the investigation of organized crime offences; 2.2. Specific measures to prevent and combat organized crime and their planning. Adapting them to procedural norms in order to improve the legal framework; 2.3. The national security mandate, preliminary action characteristic of the investigation of organized crime offences; 2.4. Conclusions to Chapter II.

The given chapter includes the analysis of the subject related to the actions preceding the start of the criminal prosecution, the improvement of the legal framework for the given subject by regulating the national security mandate, i.e. the carrying out of special investigative measures until the start of the criminal prosecution in the case of investigating crimes against state security, organized crime, of high-level corruption, of a terrorist nature, money laundering and terrorist financing. Tools for planning specific measures to prevent and combat organized crime were exposed, intervention guided by the analysis of theoretical exposures. At the same time, the specific measures to prevent and combat organized crime were analyzed, including their adaptation to procedural norms, in order to harmonize the legal framework.

Crime investigation is, in its essence, a complicated system of activity, given that this activity includes within itself forensic activity based on criminal procedure and other sciences. The purpose of this activity consists in detecting, fixing, interpreting and using the evidence related to the prejudicial facts, the discovery of crimes and the prosecution of guilty persons, the protection of people, society and the state from crimes.[2, p.13]

The materials analyzed in this chapter allow us to conclude that until the beginning of the criminal prosecution we identify a distinct phase that starts with the registration of the notification about the commission of the crime.

This phase is intended to verify the allegations presented in the notification about the commission of crimes and the accumulation of evidence in order to identify one of the solutions provided by art. 274 of the Code of Criminal Procedure, namely the initiation or refusal to initiate criminal prosecution, a fact determined by the principle of the legality of the criminal process.

The given phase is limited by a term, namely 45 days, which can be extended in case of an incomplete investigation, within which preliminary actions can be carried out, namely those that do not require the necessary authorization and do not bring any limitations to the rights and interests of citizens.

By way of derogation, the legislator came up with changes that allow the performance of special investigative measures, such as the identification of the subscriber or the user of an

electronic communications network and the collection of information, in the phase preceding the start of the criminal prosecution.

The change made gives added value to the given possibility, namely to carry out special investigative measures within the criminal process, a fact that will contribute to its objective, multilateral and under all aspects, more than that, I think it will pave the way for the application of special measures from investigations until the start of criminal prosecution in the case of investigating crimes against state security, organized crime, high-level corruption, of a terrorist nature, money laundering and terrorist financing, due to the increased danger that threatens to destroy contemporary society and the need for a prompt and professional inquiries.

In order to achieve the aforementioned, we propose as a legislative innovation the national security mandate, which represents a complex evidentiary procedure, which is part of the category of documents preceding the initiation of criminal prosecution, through which the special investigative measures provided for by art. 134 of the Criminal Code can be authorized and carried out criminal procedure until the beginning of the criminal prosecution in the case of the investigation of the offences named above.

At the same time, the conducted research established some problematic aspects in the application of specific measures to combat organized crime, the controlled inclusion in the criminal group or organization and the controlled crime, given the fact that their implementation can only be authorized by the investigating judge, who lacks competence legal in this sense.

In order to remedy the created situation, we propose the inclusion of specific measures to combat organized crime, controlled inclusion in the criminal group or organization and controlled crime in the category of special investigative measures, making the necessary changes in the Code of Criminal Procedure and Law no. 59/12 on the activity special investigation.[8]

These new special investigative measures are up-to-date, capable of providing real solutions in the prevention and combating of organized crime and can contribute to the full exploitation of the special investigative measures, the undercover investigation.

In the end, it was concluded that the procedural fairness of the participants in the trial can be guaranteed only in cases when the procedures for gathering evidence are established by the criminal procedural legislation, without leaving any loopholes in the procedure for carrying them out, when the procedural norm in this chapter is predictable, clear and their coding leaves no room for interpretation.

Chapter III, entitled "Prosecution in the case of the investigation of organized crime offences", includes five paragraphs: 3.1. Procedural planning of criminal prosecution actions within the framework of the investigation of organized crime offences. The instructions

of the prosecutor, their necessity and importance; 3.2. Criminal prosecution actions and special investigative measures specific to the investigation of organized crime offences; 3.3. Procedural aspects regarding the perpetrator's collaboration with the criminal prosecution body; 3.4. Procedural protection of the persons who collaborated with the criminal investigation body in the discovery of the entire criminal network; 3.5. Conclusions to Chapter III.

In the nominated chapter, the criminal prosecution actions and the special investigative measures used more often in the investigation of the crimes in question were reviewed, the problem being analyzed in the given chapter, with the identification of the mechanisms for their removal, and the submission of proposals to modify some provisions of Criminal Procedure Code. The topic related to the planning of the criminal investigation activity and the need to improve the legal framework by processing the nominated mechanism, the prosecutor's instructions and their role were analyzed. At the same time, the chapter includes an extensive investigation of the procedural aspects of the cooperation of the culprit with the criminal investigation body in the case of the investigation of organized crime offences and the guarantees proposed by the state in order to determine the procedural subjects nominated for cooperation. Also, the protection measures provided by the procedural legislation, the existing problem and the solutions to rectify the situation in the given subject were examined.

The analysis of what was reported in Chapter III allowed us to make a series of conclusions, namely: Planning is the most important aspect of the organization of the investigation of criminal facts; it ensures that it is carried out in accordance with the legal requirements, thoroughly, objectively and completely. According to specialized literature and as judicial practice confirms, the investigation of criminal acts, especially those committed intentionally, is inconceivable other than on the basis of a work plan, a well-thought-out program and based on a deep analysis of the data that gives them the deed at a certain stage of the criminal investigation.[9, p.1]

Planning, therefore, is a continuous process that provides the criminal investigation with a scientific support for the organization of work, eliminating from the activity of criminal investigation bodies the unilateral orientation of investigations, the development of unnecessary activities, formalism and routine. Practice provides enough examples from which it follows that if the planning method is ignored, the criminal prosecution is carried out superficially, sometimes chaotically, with all the consequences arising from it: incomplete clarification of the circumstances of the act, unqualified administration of evidence, easily passing over the facts and significant circumstances for solving the case, insufficient use of forensic scientific methods and means, other deficiencies likely to lead to unnecessary expenditure of energy and time, and

in more difficult cases to make it impossible to discover the crime and bring the guilty persons to criminal responsibility, taking attitudes regarding the investigated deed and future prevention of such crimes.

To the mentioned, we should add that the planning of the criminal investigation activity should not be approached in a simplistic way, as drawing up a list of actions, as, to our regret, some prosecutors/criminal investigation officers still do. Planning has a wider content, it represents "the organizational and creative side of a complicated thinking process of the person who carries out the criminal investigation", a process that ends with the drawing up of a work program, of a prospective research activity model. Under this aspect, planning can be treated as a creative process of programming (modeling) the criminal investigation activity, a process that includes, on the one hand, the determination based on the analysis of the existing data in question of the factual situation, and, on the other hand part, directing the research activity, establishing the means and way of administering the evidence, other actions to organize the research activity in a position to ensure success in the discovery of the crime and the future prevention of such prejudicial acts. Having said that, we can emphasize that the planning of the criminal investigation activity has a practical importance, it ensures:

- directing investigations and carrying them out in an organized manner, with the criminal investigation body having the initiative in the administration of evidence;

- carrying out criminal investigation activities in full accordance with the requirements of criminal procedural legislation and at a high quality level, strictly respecting the rights of those involved in the process;

- combining the possibilities of the criminal investigation bodies and those of special investigations, the extensive application of special knowledge by training specialists and experts in the process.[9, p.1]

The planning of the procedural activity is intended to guide the person carrying out the criminal investigation regarding organized crime offences throughout the criminal process, to plan the criminal investigation actions and to analyze the facts and conditions that determined the commission of the crime, to come up with solutions regarding prevention and combating them, being an indicator and a promoter of a perfect and applicable legislation.

Taking into account the importance of this functional tool, we opine on the need to process the nominated mechanism through its codification. More than that, this necessity is imperative, given the fact that the criminal investigation plan is the source of the instructions of the prosecutor/criminal investigation officer, a method of procedural communication through which the nominated subjects perform their duties. It is intended to increase the quality of the

judicial act and to contribute to the criminal investigation being carried out objectively, multilaterally and in all aspects, respecting the reasonable term of the criminal investigation.

The conduct of the criminal prosecution involves the performance of all the procedural and procedural acts necessary to achieve the object of the prosecution, which is why most of the activities are focused around the collection and administration of evidence related to the existence of the crime, the identification of the perpetrator and the establishment of his responsibility, in such a way that it is possible to decide whether or not it is the case to be sent to court.[5]

The criminal investigation actions present evidentiary procedures through which the criminal investigation activity is materialized and aim at the fixation, accumulation, verification of the evidence in order to establish the circumstances of the commission of the crime. Certain criminal investigation actions are characteristic for each category of crimes, the performance of which contributes to the rapid discovery of crimes and the criminal prosecution of guilty persons.

Therefore, in the case of organized crime offences, the actions to be taken are characterized by a logical algorithm designed to identify the most effective criminal prosecution actions, the performance of which determines the achievement of the purpose of the criminal process.

Taking into account the complexity of the criminal prosecution in the investigation of the crimes in this case, it is proposed to apply on a large scale special investigative measures, to attract specialists and experts to the collection, examination and analysis of evidence, to improve the international mechanisms of procedural cooperation, given the fact of the globalization of the phenomenon of organized crime and obtaining a cross-border character.

These criminal prosecution actions are aimed at respecting the rights of the participants in the trial, namely they determine that no innocent person is held criminally liable, and that the victim is rehabilitated in the rights prejudiced, that there is a procedural and fair balance, the state through the criminal investigation body to have the role of regulator.

Thus, in the given chapter, those criminal prosecution actions that are characteristic of the investigation of organized crime were described, some problematic aspects were identified from the criminal procedural point of view, the removal of which would essentially contribute to the improvement of the justice act.

So, analyzing what was exposed in Chapter III, I conclude about the necessity of undertaking some legislative actions in order to harmonize the activity of the criminal investigation body, namely:

1. Completing the criminal procedural legislation with appropriate provisions in the chapter on the creation of the group of investigative officers and its status, namely the assignment of the prosecutor's authority to form the group of investigative officers and the inclusion of the investigative officer in the notion of the prosecution, as well as the assignment of the officers of the Information and Security with the right to carry out special investigative measures. (art. 52, art. 6 pt. 31, art. 75², 138¹º Criminal Procedure Code)

2. Revising and updating the legal framework regarding the performance of special investigative measures.

I am of the opinion on the need to complete the list of special investigative measures provided by the Code of Criminal Procedure and Law no. 59/12 on special investigative activity with new measures, namely the controlled inclusion in the criminal group or organization and the controlled crime. In the same context, it is necessary to implement the authorization of the use of the legal entity as an undercover investigator.

3. Completing the criminal procedural legislation with appropriate provisions on the preparation of the minutes of the search and on-site investigation in complex and large-scale cases, where it is necessary to investigate and search large areas of land and multiple immovable assets.

The criminal procedure code, in the provisions of art. 124 and art. 131, indicates the procedure and method of drawing up the minutes during the on-site investigation and search. The given articles, being blanket rules, also refer, in terms of the procedure for drawing up the minutes of the mentioned procedural actions, to the provisions of art. 260 and art. 261 of the Criminal Procedure Code.

Taking into account the complexity of criminal cases of organized crime, cases are identified when large areas of land and multiple immovable assets are subject to on-site investigation and search. In such cases, drawing up a report is very difficult and long-lasting, which negatively determines the progress of the criminal investigation.

From the procedural practice it is confirmed that the on-site investigation or search in the cases of large areas of land and multiple immovable assets is carried out by sector, by the members of the criminal investigation group at the direction of the group leader. In each individual case, a separate report is drawn up, which is attached to the basic report of the procedural action, where it is mentioned that the on-site investigation or search was carried out by sectors, with their enumeration, as well as the rest of the information provided by art. 260 and art. 261 Criminal Procedure Code.

This way of drawing up the report of the on-site investigation and the search is not expressly provided by the criminal procedural legislation and because of this, it could lead to the nullity of the evidence, a fact that determines the need to codify the procedure stated in order to put on a vest procedural.

4. Modification and completion of art. 125 of the Criminal Procedure Code, so as to allow the criminal investigation body to issue the reasoned order in cases that do not suffer a delay or in case of a flagrant crime.

The given opinion has procedural support and its codification would not prevent the carrying out of the criminal investigation, namely emerging from the legal provisions that the prosecutor and the investigating judge verify the legality of this action, more than that, the criminal investigation body, in the person of the criminal investigation officer, is entitled to conduct searches and issue warrants.

Through the criminal investigation actions, the stage of evidence accumulation materializes, being a basic segment of the criminal process, contributing at the same time to the fixation, verification and analysis of the evidentiary material.

The efficient arrangement of the criminal investigation actions determines the success of the investigations.

Convincing the person to cooperate with the state bodies in order to prosecute the guilty persons, including the unraveling of the entire criminal network of the criminal organization constitutes a special professional skill of the prosecutor, or as the case may be, of the criminal investigation body. However, this fact, in addition to the positive side, manifested by its success, also entails the appearance of obligations in the event of the existence of risks to ensure the life and health of the people who have given their consent to cooperate with the state bodies and their family members, such as of their properties.

This obligation is quite serious, responsible and in this case, the competent bodies of the state enter into an open battle with the criminal factor, often falling prey to it, as a result of the conscious fulfillment of their duties, including those related to the protection of witnesses, to maintain evidence.

In order to make this process more efficient, a witness protection body was created. The effectiveness of this specialized body depends, to a large extent, on its place in the hierarchy of legal bodies, as well as the legislative framework, which determines its competence and abilities, as well as the mechanisms for materializing the attributions related to the implementation of the protection program.

The person predisposed to cooperate with the criminal investigation body must be assured not only with procedural advantages for his facts and attitude, but also be confident that the state, by putting its coercive mechanisms into operation, can guarantee him adequate safety, a fact that will determine the desire of many to provide the necessary support in order to counteract the phenomenon of organized crime.

So, analyzing the aspect of the release from criminal responsibility of the perpetrator, who agrees to collaborate with the competent bodies by giving statements about the existence of the criminal organization and helped to discover the crimes committed by it, or contributed to the unmasking of the organizers, leaders or members of the organization respectively, I opine on the appropriateness of retaining the cases described as grounds for the termination of the criminal prosecution and completing par. (2) of art. 285 Criminal Procedure Code (Termination of criminal prosecution) with the phrase "including in the cases provided for in par. (6) of art. 47 Criminal Code.

Also, the state should take a more humanistic position towards convicts who are serving their criminal sentence in prison and have collaborated with the criminal investigation body in discovering the entire criminal network, in terms of benefiting from a shorter term, in which the release can be applied of criminal punishment (in case of conditional release from punishment before the term and replacement of the unexecuted part of the punishment with a milder punishment).

Uncovering the activity of the criminal organization and bringing it to criminal responsibility is a very arduous process, and the possibility of release from criminal liability and criminal punishment of the people who have given the agreement of criminal collaboration in the discovery of the entire criminal network must be attractive and safe. The attractiveness must be determined by the so-called "procedural bonuses" stated above, and the safety by the viability of the protective measures.

The institution of the application of protective measures as a whole, in order to be viable, in my opinion, is to be processed by codifying the norm in the Code of Criminal Procedure. This fact will increase the degree of responsibility of all competent participants in the application and execution of protection measures, concretizing the action algorithm of all the authorities involved in the request, ordering and application of protection measures, it will provide you with mechanisms and procedural tools for the realization of the protection program and will open new functional opportunities for the authorized body.

The body authorized to protect witnesses, in turn, must be an independent entity, intended to ensure the execution of protective measures ordered based on the decisions of the prosecutor,

or as the case may be, of the court in the criminal process, respecting the extensive principle of protective measures protection, in the case of maintaining the danger to the person's life and health, until its disappearance.

At the same time, taking into account the geographical constraints and the small number of the population of the Republic of Moldova, as well as the limited financial possibilities of the country, it practically reduces to zero the application of more extensive, more effective measures, without international cooperation of the competent bodies in the field of witness protection.

Chapter IV, entitled "International legal cooperation in criminal matters in the investigation of organized crime offences. The harmonization of criminal procedural legislation in the given compartment" includes three paragraphs: 4.1. International legal cooperation in criminal matters in the investigation of organized crime offences; 4.2. Harmonization of the criminal procedural legislation in the department of organized crime investigation; 4.3. Conclusions to Chapter IV.

The given chapter includes the analysis of the situation related to the international legislation in order to prevent and combat organized crime, being studied the mechanisms and instruments for realizing these provisions in the process of investigating crimes. Attention was drawn to the fact that in the context of globalization, organized crime has become a cross-border phenomenon and, as such, combating it can no longer be carried out by states independently, but in global, regional and sub-regional integrated systems. More than that, arising from the major risks to national and international security, considering the community's interest in protecting its citizens from this dangerous scourge, such as organized crime, in the given chapter the idea of the need to create a common criminal procedural framework was deduced and formulated for all the countries of the European Union, including the countries in the process of accession, which would significantly contribute to the fight against this phenomenon, making viable mechanisms available to the competent bodies, which could be applied in practice, in real time, but not only on paper.

At the same time, it was established that the volume of legal assistance in the field of criminal law is sufficiently adjusted to the latest needs, but the instruments for their applicability are to be chiseled through the multiple collaborations with the competent international bodies.
In this compartment, directions of action aimed at improving international cooperation were identified:

- improving information exchange and cooperation with similar authorities and structures from other states, international bodies and agencies;

- increasing the degree of use of the instruments provided for in the documents adopted at the regional or international level, aimed at international cooperation in combating organized crime;

- ensuring interoperability with EU databases/information systems;

- improving cooperation with the corresponding police and judicial authorities from jurisdictions recognized as "off-shore";

- ensuring an active presence in international cooperation formulas dedicated to preventing and combating organized crime.[4, p.4]

As for the national criminal procedural legislation, it is to be improved in the departments of examining the notification about the commission of the crime, planning and carrying out criminal prosecution actions, applying the procedural provisions related to the protection of witnesses and other participants in the process, authorizing and carrying out special measures of investigations, as well as completing the special investigative activity with new measures.

3. GENERAL CONCLUSIONS AND RECOMMENDATIONS

The topic of this doctoral thesis was chosen, being determined, by the awareness of the imminent danger that organized crime represents to national security and the desire to identify viable mechanisms to counter the given phenomenon through innovative procedural tools, a fact that determined the analysis of the procedural framework existing both at the national and international level, the identification of the existing problems, which determine the stagnation of the investigations of organized crime offences and the submission of proposals to amend the criminal procedural legislation in order to harmonize the normative framework capable of ensuring an objective, multilateral investigation and under all aspects, in a reasonable term.

So, having a well-defined goal, at the initial stage of the research, objectives were drawn in order to materialize the proposed research activity, namely:

- the analysis of specialized literature on the topic of investigating organized crime offences;

- the analysis of the preliminary actions and the criminal prosecution actions characteristic of the investigation of organized crime offences;

- improving the activity of planning criminal prosecution actions when investigating organized crime offences;

- the practical solution of the problems faced by law enforcement agencies when applying special investigative and specific measures to prevent and combat organized crime;

- adaptation of specific measures to prevent and combat organized crime to procedural norms in order to improve the legal framework;

- identification of innovative procedural tools in order to prevent and combat organized crime;

- establishing a criminal procedural climate comfortable for the perpetrator who expressed his agreement to collaborate with the criminal investigation body in discovering the entire criminal network;

- identification of procedural gaps in the application of the protection of persons who collaborated with the criminal investigation body;

- establishing the necessary mechanisms to improve the application of international and national legislation in the context of international legal cooperation in criminal matters when investigating organized crime offences;

- the improvement of the normative procedural framework in the compartment subject to research and the elaboration of the proposals of the lex ferenda.

The study carried out represents an extensive investigation of the phenomenon of organized crime, its evolution, the danger it represents and resulting from this, the investigation procedure, which unfortunately, as a result of the modernization of the concept of organized crime, turns out to be ineffective and prone to restarts.

Taking into account the research carried out, the geopolitical location of the Republic of Moldova and the interests facing it of the great powers, the political instability in the country and the vertiginous development of organized crime against the background of the war in Ukraine, I conclude that the criminal procedural legislation does not offer viable fighting tools against the phenomenon of organized crime. As a result of the stated dangers, the national legislation lacks means that, through their prompt application, can oppose the threats given by multidimensional documentation and effective countermeasures.

In the shadow of the latest changes in the criminal procedural legislation, such as the special investigative measures and the national security legislation, we witness the fact that the competent state bodies, instead of strengthening the normative bases in the given compartments, weaken it. How can a body specialized in ensuring national security, namely the Intelligence and Security Service, fight the crimes that by law are under its jurisdiction, such as crimes that threaten national security, including terrorism, being deprived of the possibility of carrying out special investigative measures? Even if the legislator adopted Law no. 179 of 07.07.2023 on

counter-informative activity and external informative activity, it does not provide the Service with powers to fight, being one intended, in large part, for the accumulation of information.

Here there is a big gap in the legislation and if we want to strengthen the aspect nominated above, the national legislation must correspond to international standards, more than that, we have to face the threats that threaten the national security, by strengthening the positions of criminal organizations.

In this context, I want to come up with some proposals to amend the criminal procedural legislation in the department of the investigation of organized crime offences, which would bring added value. These proposals are based on the practice of countries with extensive experience in combating organized crime such as: Italy, the Russian Federation, Poland, Serbia, etc., as well as the personal experience accumulated in over 18 years of activity as a prosecutor, investigating organized crimes and those who threaten national security.

The obtained scientific results state the following general conclusions, which in turn determine the need to carry out incursions into the criminal procedural legislation in view of its harmonization and compliance with international standards, as follows: "The path followed by the criminal investigation body is oriented towards establishing the truth and all its procedural actions, in order to obtain a legal status, must be found in the Criminal Procedure Code, so that the obtained evidence is not invalidated, thus, the procedural legal norms from other national laws can be applied within the criminal process only on the condition of their inclusion in the Criminal Procedure Code. [3, art. (2) paragraph (4)]

This imperative rule determines the fact that all the provisions of special procedural laws are to be found in the Criminal Procedure Code, so that they can be applied in the process of collecting evidence. In this case, we reiterate the stated position, namely that the procedural fairness of the participants in the trial can only be guaranteed in cases where the procedures for gathering evidence are established by the criminal procedural legislation, without any loopholes being left in the procedure for carrying them out, when the norm procedural in this chapter is predictable, clear and their codification leaves no room for interpretation.

The national legislation must correspond to the international standards, more than that, the Republic of Moldova in its European path, must tend to a harmonization of the domestic legislation with the community one, in order to identify modern instruments in the fight against organized crime, such as, for example, the mandate of national security, special measures characteristic of the investigation of the investigated crimes, and determinative norms of collaboration with state bodies and appropriate protection programs.

The current scientific problem, which was determined and solved during the research, is that the national legislation must be armed with viable and modern mechanisms to combat the phenomenon of organized crime. Thus, the competent bodies of this segment, in addition to the general powers, have special powers that manifest themselves through: the possibility of carrying out special investigative measures in the criminal process; extending the deadline for verification of notifications about the commission of the crime of organized crime, of corruption and related crimes, attributed to the competence of the Anticorruption Prosecutor's Office, against state security, of a terrorist nature, of money laundering or financing of terrorism; revision of the list of special investigative measures with the inclusion of some specialized ones such as: controlled inclusion in the criminal group or organization and controlled crime/contravention; extending the term for authorizing special investigative measures within the national security mandate; providing people who have worked with criminal investigation bodies with real protection programs and with procedural facilities; authorization to carry out the search, in cases that do not suffer postponement, based on the order of the criminal prosecution officer; the processing of the criminal investigation action plan, as well as the method of carrying out the on-site investigation and the search, in the event of the need arising from the investigation of large areas of land and multiple immovable assets located on them, etc.

Based on the conclusions obtained vis-à-vis the phenomenon of organized crime, some research was carried out that revealed certain gaps/problems in the criminal procedural legislation, which negatively influence the criminal investigation.

Thus, the conclusions drawn in this paper allow me to outline the following **propositions** of *lex ferenda:*

1. Amending and completing the provision of the normative text of art. 274 Criminal Procedure Code with a new paragraph, through the following wording:

(3²*) In the event that the content of the report or finding results in the suspicion of the commission of an organized criminal offence, of the crime of corruption and related to those of corruption, attributed to the competence of the Anticorruption Prosecutor's Office, against the security of the state, of a terrorist nature, of money laundering or terrorism financing, the prosecutor is to decide on it in accordance with par. (1) of this article, in a term that will not exceed 90 days, and which, if necessary, motivated, can be extended for a term of up to 2 years, and in the case of conducting undercover investigations for a term up to 3 years.*

2. Amending and supplementing the provision of the normative text of art. 6 paragraph (1) Criminal Procedure Code with a new point, through the following wording:

13¹) The written indication of the prosecutor - a communication tool between the procedural subjects on a hierarchical line, (the superior hierarchical prosecutor, the prosecutor who conducts or carries out the criminal investigation, the criminal investigation officer and the investigation officer) mandatory to follow, in order to execute the prescribed procedural actions and which, in case of disagreement, can be appealed to the superior hierarchical prosecutor.

2.1. Amending and supplementing the provision of the normative text of art. 6 paragraph (1) point 31) Criminal Procedure Code with the phrase *investigation officer*, through the following wording:

31) the prosecuting party – persons authorized by law to carry out or request the carrying out of the criminal investigation (the prosecutor, the criminal prosecution body*, the investigation officer*, as well as the injured party, the civil party and their representatives).

3. Amending and supplementing the provision of the normative text of art. 52 paragraph (1) Criminal Procedure Code with a new point, through the following wording:

10¹) orders the performance of special investigative measures by a group of investigative officers.

3.1. Amending and completing the provision of the normative text of art. 52 paragraph (1) point 11) of Criminal Procedure Code with the phrase *and investigation*, through the following wording:

11) solves the abstentions or recusals of criminal investigation *and investigation* officers.

4. Amending and supplementing the provision of the normative text of art. 57² paragraph (2) Criminal Procedure Code with the phrase of *the Intelligence and Security Service*, through the following wording:

(2) In the framework of the criminal process, only investigative officers who work within the specialized prosecutor's offices, the Ministry of Internal Affairs, the National Anti-Corruption Center, the Customs Service, the State Fiscal Service, *the Intelligence and Security Service* can carry out special investigative measures, and of the National Penitentiary Administration.

5. Amending and completing art. 134 par. (1) point 1) and 2) Criminal Procedure Code with two special investigative measures, such as *the controlled crime/contravention (par. (1) point h) and the controlled inclusion in the criminal group or organization (par. (2)pct.h)*, through the following wording:

(1) The following special investigative measures may be carried out during the criminal investigation:

1) With the authorization of the investigating judge:

a) the search of the home, the use and/or installation in it of devices that ensure photography or surveillance and audio and video recording;

b) technical supervision;

c) interception and recording of communications and/or images;

d) detaining, investigating, handing over or picking up postal items;

e) monitoring or controlling financial transactions and/or access to financial information;

f) collecting information from providers of electronic communications services;

g) accessing, intercepting and recording computer data;

h) the controlled crime or misdemeanor;

2) With the authorization of the prosecutor:

a) identification of the subscriber or user of an electronic communications network;

b) control of the transmission or receipt of money, services or other material or non-material values claimed, accepted, extorted or offered;

c) supervised delivery;

d) acquisition of control;

e) undercover investigation;

f) visual tracking;

g) gathering information;

h) controlled inclusion in the criminal group or organization.

2) With the authorization of the prosecutor:

a) identification of the subscriber or user of an electronic communications network;

b) control of the transmission or receipt of money, services or other material or non-material values claimed, accepted, extorted or offered;

c) supervised delivery;

d) acquisition of control;

e) undercover investigation;

f) visual tracking;

g) gathering information;

h) controlled inclusion in the criminal group or organization.

6. Amending and supplementing the provision of the normative text of art. 138¹º par. (4) Criminal Procedure Code with the phrase of *the Intelligence and Security Service and as well as the legal person, regardless of its form of organization, established in this sense*, through the following wording :

(4) Undercover investigators are employees, specially designated for this purpose, within the Ministry of Internal Affairs, the National Anti-Corruption Center, the Customs Service, the State Fiscal Service, *the Intelligence and Security Service* or the National Penitentiary Administration or they are persons trained in carrying out a special measure of concrete investigations, *as well as the legal person, regardless of its form of organization, established in this sense.*

7. Completion of Chapter III, Means of evidence and evidentiary procedures, from Title IV, Section 5, Special investigative measures, of the Criminal Procedure Code with a new article, through the following wording:

Article 138[13] Controlled crime or misdemeanor

(1) The controlled crime or misdemeanor is the commission by the controlled person in the criminal group or organization of an act that shows only objective signs of a minor or less serious crime, or of a misdemeanor, in a manner controlled and directed by the authority provided for in Art. 572 par. (2) of Criminal Procedure Code, for the purpose of solving or discovering serious, particularly serious and exceptionally serious crimes.

(2) The crime/controlled misdemeanor is committed only for the purpose of maintaining the legend, proving the existence of the crime and identifying the perpetrator.

(3) The controlled crime/misdemeanor can only be authorized in the case of the investigation of organized crime, corruption and related crimes, attributed to the competence of the Anticorruption Prosecutor's Office, against state security, of a terrorist nature, money laundering or financing of terrorism.

8. Completion of Chapter III, Evidence and evidentiary procedures, from Title IV, Section 5, Special investigative measures, of the Criminal Procedure Code with a new article, through the following wording:

Article 13814. Controlled inclusion in the criminal group or organization

(1) The controlled inclusion in the criminal group or organization consists in the introduction, under the conditions provided by this code, of the collaborators from the subdivisions specialized in preventing and combating organized crime or, as the case may be, of other persons in the criminal group or organization with the aim of influencing members of the criminal group or organization to give up organized criminal activity or the commission of certain crimes, to collect informants from within the criminal group or organization, to damage the structure of the criminal group or organization, to redirect the criminal activity of the criminal group or organization, to misinform members of the criminal group or organization, as well as to accumulate information about the composition and structure of the criminal group or

organization, about the criminal intentions and crimes previously committed by the criminal group or organization.

(2) Controlled inclusion in the criminal group or organization ends in case of:

a. expiration of the employment term provided for in the controlled employment agreement;

b. achievement of the goal established in the controlled employment agreement;

c. unmasking of controlled persons by members of the criminal group or organization or occurrence of circumstances that clearly endanger the lives of controlled persons.

9. Completion of Chapter I, Criminal prosecution, of Title I of the Special Part of the Code of Criminal Procedure with a new article, through the following wording:

Article 255[1]. Plan of prosecution actions

(1) The plan of criminal investigation actions, scheduling and ordering the activities and measures necessary to carry out the investigation, in order to clarify the fulfillment of the facts and circumstances that can contribute to confirming the truth in a criminal trial, based on principles such as individuality, reality and mobility. .

(2) The plan of criminal prosecution actions is made up of versions and lists of planned actions, indicating the executors and the period of execution, as well as other actions intended to consolidate procedural activities.

(3) The plan of criminal investigation actions is drawn up at the stage of starting the criminal investigation by the criminal investigation officer and is approved by the prosecution leading the criminal investigation. In the case of prosecution by the prosecutor, the plan is approved by the superior hierarchical prosecutor.

10. Modifying and supplementing the provision of the normative text of art. 125 paragraph (4) Criminal Procedure Code by replacing the words prosecutor with *the criminal investigation officer* and him with *through the prosecutor*, through the following wording:

(4) In cases that do not suffer postponement or in the case of a flagrant crime, the search can be carried out based on a reasoned order of *the criminal investigation officer*, without the authorization of the investigating judge, and it will be presented to him immediately *through the prosecutor*, but no later than 24 hours after the end of the search, the materials obtained as a result of the search, indicating the reasons for carrying it out. The investigating judge verifies the legality of this procedural action.

11. Amending and completing the provision of the normative text of art. 124 Criminal Procedure Code with a new paragraph, through the following wording:

(2) In the case of the need arising from the investigation of large areas of land and multiple immovable assets located on them, the examination will be carried out by sector with the preparation of the respective minutes, which will finally be annexed to the basic minutes.

12. Amending and completing the provision of the normative text of art. 131 Criminal Procedure Code with a new paragraph, through the following wording:

(3¹) In the case of the need arising from the search of large areas of land and multiple immovable assets located on them, the search will be carried out by sectors with the preparation of the respective minutes, which will finally be annexed to the basic minutes.

13. Changing the name and completing the normative text of art. 215 Criminal Procedure Code, through the following wording:

Article 215. Procedural protection of witnesses and other participants in the criminal process

(1) In the circumstances provided by the Law on the protection of witnesses and other participants in the criminal process, the criminal investigation body, the prosecutor or, depending on the case, the court are obliged to take the measures provided by the legislation to protect life, body integrity , freedom or assets of the participants in the trial and, under the law, of their close relatives and family members, applying in this sense, depending on his competences, urgent measures, protective measures and assistance measures. The list of nominated measures is not exhaustive and at the decision of the prosecutor or the court, in case of extreme necessity, other protective measures can be applied.

(2) The application of protection, emergency and assistance measures is ordered by the reasoned decision of the prosecutor or the court, which is sent immediately to the authorized body or within 24 hours at most. Protection measures can be applied alone or cumulatively, including with urgent measures and/or assistance measures regarding witnesses and other participants in the criminal process, including regarding persons in detention facilities. The decision is binding for the witness protection body.

(3) In the framework of the criminal process, the criminal investigation body is authorized to apply ex officio the urgent measures or the assistance measures provided for in this law, with the immediate notification or within 24 hours at most of the prosecutor and the authorized body, being also characteristic powers of the administration of the place of detention in the case of detained, arrested and convicted persons.

(4) Competent for the execution of the decision to apply protection measures is the body authorized to protect witnesses and other participants in the criminal trial, which functions as a

subdivision of the Ministry of Internal Affairs and which issues a decision in this regard, being also responsible for the application and running the protection program.

(5) The term of action of the protection program is determined by the period of the criminal trial, but in the case of the persistence of the danger to the life and health of the protected person, it can be extended until the disappearance of the causes that determined this decision.

(6) The protection program is terminated by the reasoned decision of the authorizing officer, based on the grounds provided by Law 195/2008.

(7) In the case of the prosecutor's refusal to examine the application for inclusion in the protection program or to issue a decision regarding the application of protection measures, as well as in other cases when he considers that his rights have been violated, the person may file a complaint to the investigating judge within 10 days. The complaint is examined within 10 days, under conditions of confidentiality and in accordance with the provisions of art. 313 Criminal Procedure Code.

14. Completion of Chapter IV, Initiation of criminal prosecution, from Title I of the Special Part of the Criminal Procedure Code with a new article, through the following wording:

Article 278¹. The national security mandate

(1) The national security warrant is a complex evidentiary procedure, from the category of documents preceding the start of the criminal investigation, through which the special investigative measures provided for by art. 134 Criminal Procedure Code can be authorized and carried out, until the start of the criminal investigation, in the case the investigation of crimes of organized crime, of corruption and related crimes of corruption, attributed to the competence of the Anticorruption Prosecutor's Office, against the security of the state, of a terrorist nature, of money laundering or financing of terrorism.

(2) The competent authorities for the initiation and execution of the national security mandate are the investigative officers who work within the specialized prosecutor's offices, and the Intelligence and Security Service.

(3) The initiation of the security warrant is made through a reasoned request addressed by the head of the competent body to the General Prosecutor, who in turn, personally, if he finds that the request is motivated, authorizes the prosecutor from the specialized prosecutor's offices, who examines the referral about the commission of the crime, to submit a request for the authorization of the national security mandate to the president of the Supreme Court of Justice. He submits the submitted approach for examination to one of the judges designated for this purpose, who admits or, as the case may be, rejects the approach.

(4) If the judge finds that the approach is justified, he orders the authorization, through a reasoned conclusion, which must include:

a) name of the court, date, time and place of issue;

b) data and information showing the existence of a threat to national security, by presenting the facts and circumstances that justify the measure;

c) special investigative measures authorized, among those provided for in art. 134 Criminal Procedure Code;

d) the identity of the person who is affected by the special investigative measures, by restricting fundamental rights and freedoms, if this is known;

e) the bodies that carry out the authorized activities;

f) natural or legal persons who have the obligation to provide support for the execution of special investigative measures;

g) the validity period of the authorization.

(5) The judge issues, at the same time, a mandate including the elements provided for in paragraph. (4) lit. a) and c)-g).

(6) The special investigation measure, authorized under the national security mandate, is ordered for a period of 90 days, the term starting from the date of authorization and can be extended, motivated in the same way, up to 2 years, and in case of conducting undercover investigations, for a term of up to 3 years.

(7) The recording of the results of the special investigative measures authorized under the national security mandate is done in accordance with art. 136 of the Criminal Procedure Code with the drawing up of a single report for all measures.

(8) After the expiration of the period for which the national security mandate was authorized, the prosecutor, in compliance with the provisions of art. 136 par. (10), (11), (12) Criminal Procedure Code, informs in writing, by registered letter, the persons which were subjected to special investigative measures.

(9) The case prosecutor, after the conclusion of the national security mandate, has the obligation to inform the General Prosecutor in writing about the result of the activities authorized by the mandate and about the measures taken, according to the law.

(10) The authorization procedure for special investigative measures, as well as the carrying out of the authorized activities, is carried out in compliance with the legal provisions regarding the protection of data that constitute state secrets.

15. Amending and supplementing the provision of the normative text of art. 285 paragraph (2) Criminal Procedure Code with the phrase *including in the cases provided by paragraph (6) of art. 47 Criminal Code*, through the following wording:

(2) Termination of criminal prosecution takes place in cases of non-rehabilitation of the person, provided for in art. 275 points 4)-9) of this code, as well as if there is at least one of the causes provided for in art. 53 of the Criminal Code, *including in the cases provided by paragraph (6) of art. 47 Criminal Code* or if it is found that:

1) the prior complaint was withdrawn by the injured party, a transaction was concluded within the mediation process or the parties reconciled - in cases where the criminal prosecution can be started only on the basis of the prior complaint or the criminal law allows reconciliation;

2) the person has not reached the age at which he can be held criminally liable;

3) the person has committed a prejudicial act being in a state of irresponsibility and it is not necessary to apply coercive measures of a medical nature.

At the same time, arising from the major risks to national and international security, considering the community's interest in protecting its citizens from this dangerous scourge, such as organized crime, the creation of a common criminal procedural framework for all the countries of the European Union, including the countries in accession course, would significantly contribute to the fight against this phenomenon, providing the competent bodies with viable mechanisms, which could be applied in practice, but not only on paper. (Chapter 5, point 5.2)

Suggestions regarding potential future research directions on the topic addressed:

1. The methodology and technique of investigating organized crime offences depending on the forms of their manifestation.

2. Classification of organized crime offences. Aspects of delimitation of the forms of manifestation.

3. Revision of the normative legal framework related to the stages of the criminal process.

4. The unification of the procedural legal framework of the community and of the countries in the process of accession to the EU, in the department of the investigation of organized crime. Implementation of international legal instruments in the field of criminal law capable of preventing and combating organized crime.

BIBLIOGRAPHY

1. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions regarding the EU Strategy to fight organized crime 2021-2025, COM(2021)170, Document 52021DC0170, 14.04.2021, Online publication 15-04 -2021.
2. Criminal procedural law (Special Part). Conducting the criminal investigation. University courses. In: DREPT/MD web platform/online course. [cited on 26.07.2022]. Available: https://dreptmd.wordpress.com/cursuri-universitare/drept-procesual-penal-partea-speciala/desfasurarea-urmaririi-penale/.
3. Criminal Procedure Code of the Republic of Moldova no. 122 of 14.03.2003. In: Official Gazette of the Republic of Moldova no. 248-251, 05.11.2013, art. 699.
4. Decision of the Government of Romania no. 930 of September 1, 2021 on the approval of the National Strategy against organized crime 2021-2024. In: Official Gazette, Part I, no. 898 of September 20, 2021. [cited on July 12, 2022]. Available:https://legislatie.just.ro/Public/DetaliiDocumentAfis/246489.
5. DOLEA, Ig. Evidence in criminal proceedings. Guide for lawyers. Chisinau: Topografia-Sirius, 2016, 55p. ISBN: 978-9975-57-202-6.
6. GIUPANĂ, V. Opinions regarding national and international cooperation in order to prevent and combat cross-border crime. In: Quarterly scientific review of the Center for Strategic Defense and Security Studies "Strategic Impact", No. 2/2011 ISSN 1582-810X (online edition), pp.58-62. [cited on 12.07.2022]. Available: https://cssas.unap.ro.
7. Government Decision no. 948 of 28.12.2022 regarding the approval of the Crime Prevention and Combating Program for the years 2022-2025. In: Official Gazette of the Republic of Moldova no. 35-38, 09.02.2023, art. 78.
8. Law of the Republic of Moldova no. 59 of 29.03.2012 regarding special investigative activity. In: Official Gazette of the Republic of Moldova no. 113-118, 08.06.2012, art. 373.
9. Organization and planning of the criminal investigation activity. In: ZDOCS web platform. [cited on 17.07.2022]. Available: https://zdocs.ro/doc/organizarea-si-planificarea-activitaii-de-urmarire-penala-dn63vo275515.

LIST OF PUBLICATIONS ON THE THEME OF THE THESIS

1. GROPA, M. *The limits of the security mandate - the expansion of organized crime as a justification for the security mandate.* In: National scientific-practical conference "Security mandate: current problems of interpretation, legislation and practice". Chisinau, 2020, pp. 24-30. ISBN 978-9975-56-783-1;
2. GROPA, M. *Aspects of Investigating Offences Committed Using Radioactive, Chemical, and Biological Materials.* In: "Promotion of Social and Economic Values in the Context of European Integration." 4th International Conference, Vol. 2, December 3-4, 2021, Chisinau, Republic of Moldova, pp. 38-58. ISBN 978-9975-3527-2-7;
3. GROPA, M. *International legal cooperation in criminal matters in the investigation of organized crime offences.* In: Promotion of Social and Economic Values in the Context of European Integration 6th International Conference, Vol.2, December 1-2, 2023, Chisinau, Republic of Moldova: 2023, pp.141-147. ISBN 978-9975-3611-2-5;
4. GROPA, M. *Special rules regarding the collaboration of the perpetrator with the criminal investigation body in the investigation of organized crime offences*. In: Magazine of science, innovation, culture and art "AKADEMOS" no.1(68), 2023, pp.73-79. ISSN1857-0461;
5. GROPA, M. *Procedural planning of prosecution actions within the framework of the investigation of organized crime offences*. In: Journal of the National Institute of Justice no. 2(65), 2023, pp. 18-23. ISSN 1857-2405;
6. GROPA, M. *Procedural protection of persons who collaborate with the criminal investigation body in the discovery of the criminal network.* In: National law journal no. 1(249), 2023, pp. 106-115. ISSN 1811-0770;
7. GROPA, M., RATARU, C. *Recognition of Guilt.* In: Interuniversity Scientific-Practical Conference of Young Researchers "Forms of Collaboration of the Offender with the State," Chisinau, Moldova, April 27, 2021, pp. 82-90. ISBN 978-9975-3293-8-5;
8. GROPA, M., CORSEI, A. *Collaboration of the Offender with Law Enforcement Authorities in Uncovering the Entire Criminal Network in the Republic of Moldova*. In: International Conference of Doctoral Students in Law, 13th Edition, Timisoara, June 25, 2021. Available: http://drept.uvt.ro;
9. GROPA, M. et al. *Prosecutor's Guide to Chemical and Biological Crimes*. Official UNICRI Website (© United Nations Interregional Crime and Justice Research Institute) - May 2022. Available: https://unicri.it/Publication/Prosecutor-Guide-Chemical-Biological-Crimes.

ANNOTATION

Maxim Gropa. "Criminal procedural regulations regarding preliminary actions and criminal prosecution in the case of organized crime offences".
Doctoral thesis in law. Chisinau, 2024.

Structure of the thesis: introduction, four chapters, general conclusions and recommendations, bibliography of 220 titles, 183 pages of basic text. The obtained results are published in 9 scientific works.

Key words: criminal organization, organized criminal group, phenomenon of organized crime, organized crime, controlled infiltration, controlled crime, security mandate, national security.

The purpose of the work: it consists in the multi-aspect research of the institution of organized crime, with the establishment of criteria from the perspective of improving the judicial act related to the investigation of organized crime offences as well as the submission of some scientific-practical as well as legislative recommendations to improve the national normative framework.

Research objectives: defining the concept of organized crime and the evolution of the phenomenon; analysis of the procedural framework and the actions of planning and carrying out the criminal investigation characteristic of the investigation of organized crime cases; harmonizing the normative procedural framework at the compartment under investigation.

Scientific novelty and originality: The scientific novelty and originality of this thesis consists in conducting a local doctrinal and practical study on the modern ways of investigating organized crime, specifying its nature and legal essence and highlighting the distinctive aspects, identifying effective procedural mechanisms to prevent and combat organized crime.

The scientific problem solved: it consists in the identification of effective and promising tools for the investigation of organized crime, taking into account the cross-border nature of the investigated phenomenon and the development of global, regional and sub-regional mechanisms to prevent and combat it, by unifying the procedural legislation of the community and the countries in the process of joining the EU in order to remove the impediments to quick reaction and investigation "without borders" of organized crime cases.

The theoretical significance of the research: due to the fact that the study is well systematized and documented, solutions and theoretical-practical ways of investigating organized crime are offered. The work in this case highlights some current and future problems that may appear in the practice of applying the procedural-criminal law, but also in the methods of solving them.

The applied value of the research: it consists in exposing the doctrinal material, identifying procedural issues and formulating practical recommendations for solving uncertain situations in the framework of the investigation of organized crime cases, as well as presenting proposals for amending the legislation in this regard.

Implementation of scientific results: research results, conclusions and definitive recommendations can be used in the activity of practitioners directly involved in the process of preventing and combating organized crime, in the research process for the formation of the doctrinal foundation, as well as in the training of students of higher education institutions as teaching materials. The proposals for the harmonization of the procedural legislation will be useful for the improvement of the national normative framework.

ПРИМЕЧАНИЕ

Максим Гропа. «Уголовно-процессуальные нормы о предварительных действиях и уголовном преследовании по делам об организованной преступности».
Докторская диссертация по праву. Кишинев, 2024 г.

Структура диссертации: введение, четыри главы, общие выводы и рекомендации, библиография, состоящая из 220 наименований, 183 страниц основного текста. Полученные результаты опубликованы в 9-х научных работах.

Ключевые слова: преступная организация, организованная преступная группа, феномен организованной преступности, организованная преступность, подконтрольное внедрение, подконтрольное преступление, мандат безопасности, национальная безопасность.

Цель работы: состоит в многоаспектном исследовании института организованной преступности, с установлением критериев в перспективе совершенствования правосудия, связанного с расследованием организованной преступной деятельности, а также представлением некоторых научно-практических и законодательных рекомендаций по совершенствованию национальной нормативной базы.

Задачи исследования: определение понятия организованной преступности и эволюции явления; анализ процессуальной базы и действий по планированию и проведению уголовного преследования, характерных для расследования преступлений организованной преступности; приведение в соответствие нормативно-процессуальной базы в исследуемой области.

Научная новизна и оригинальность: научная новизна и оригинальность данной диссертации заключается в проведении отечественного доктринально-практического исследования относительно современных способов расследования организованной преступности, с уточнением ее природы и правовой сущности и выделении отличительных аспектов, установления эффективных процессуальных механизмов предупреждения и пресечения организованной преступности.

Полученный результат: эволюционное, сравнительное и уголовно-правовое исследование позволяет представить некоторые рекомендации по совершенствованию национальной процессуальной нормативной базы в части касающейся рассмотрения осведомления о совершении преступления, планирования и осуществления действий уголовного преследования, кодификации процессуальных норм, касающихся защиты свидетелей и других участников судебного процесса, санкционирования и проведения специальных розыскных мероприятий до начало уголовного преследования (мандат безопасности), а также дополнения специальной розыскной деятельности новыми инструментами, такими как подконтрольное внедрение, подконтрольное преступление.

Решённая научная задача: заключается в выявлении эффективных и незамедлительных инструментов расследования организованной преступности с учетом трансграничного характера исследуемого явления и разработки глобальных, региональных и субрегиональных механизмов его предотвращения и пресечения, путем унификации процессуального законодательства сообщества и стран, находящихся в процессе вступления в ЕС, в целях устранения препятствий для быстрого реагирования и расследования «без определенных территориальных границ» преступлений организованной преступности».

Теоретическая значимость исследования: в связи с тем, что исследование хорошо систематизировано и задокументировано, предлагаются решения и теоретико-практические методы расследования организованных преступных деяний. В работе при этом освещаются некоторые текущие проблемы, а также проблемы будущего, которые могут возникнуть в практике применения процессуально-уголовного права, а также в методах их решения.

Практическое значение исследования: заключается в изложении доктринального материала, установлении процессуальной проблематики и формулировании практических рекомендаций по разрешению неясных ситуаций в рамках расследования преступлений организованной преступности, а также представлении предложений по изменению законодательства в этой связи.

Внедрение научных результатов: результаты исследования, выводы и окончательные рекомендации могут быть использованы в деятельности практических работников, непосредственно участвующих в процессе предупреждения и борьбы с организованной преступностью, в исследовательском процессе по формированию доктринальной основы, а также в обучении студентов высших учебных заведений в качестве учебного пособия. Предложения по приведению в соответствие процессуального законодательства будут полезны для совершенствования отечественной нормативной базы.

ADNOTARE

Maxim Gropa. ”Reglementări procesuale penale privind acțiunile premergătoare și urmărirea penală în cazul infracțiunilor de criminalitate organizată”.

Teză de doctor în drept. Chișinău, 2024

Structura tezei: introducere, patru capitole, concluzii generale şi recomandări, bibliografie din 220 titluri, 183 pagini de text de bază. Rezultatele obţinute sunt publicate în 9 lucrări ştiinţifice.

Cuvinte-cheie: organizaţie criminală, grup criminal organizat, fenomenul criminalităţii organizate, criminalitate organizată, încadrarea controlată, infracţiunea controlată, mandat de securitate naţională, securitate naţională.

Scopul lucrării: constă în cercetarea multiaspectuală a instituţiei criminalităţii organizate, cu stabilirea criteriilor din perspectiva îmbunătăţirii actului justiţiar legat de investigarea infracţiunilor de criminalitate organizată, precum şi înaintarea unor recomandări de ordin ştiinţifico-practic, precum şi legislativ de perfectare a cadrului normativ naţional.

Obiectivele cercetării: analiza materialelor științifice din țară și de peste hotare aferent criminalității organizate, analiza acțiunilor premergătoare, acțiunilor de planificare şi efectuare a urmăririi penale în cazul investigării infracţiunilor de criminalitate organizată, armonizarea cadrului normativ procesual la compartimentul supus cercetării.

Noutatea şi originalitatea științifică: noutatea şi originalitatea ştiinţifică a prezentei teze constă în efectuarea unui studiu doctrinal şi practic autohton asupra cadrului normativ de reglementare a modalităţilor de investigare a infracţiunilor de criminalitate organizată, cu specificarea naturii şi esenţei juridice a ei şi reliefarea aspectelor distinctive, identificarea mecanismelor procesuale moderne/eficiente de investigare a crimei organizate.

Rezultatul obţinut: cercetarea evolutivă, comparativă şi juridico-penală permite înaintarea unor recomandări de ameliorare a cadrului normativ procesual naţional la compartimentul examinării sesizării despre comiterea infracţiunii, planificării şi efectuării acţiunilor de urmărire penală, codificării prevederilor procesuale ce ţin de protecţia martorilor şi a altor participanţi la proces, autorizării şi efectuării măsurilor speciale de investigaţii în cadrul procesului penal(mandatul de securitate), precum şi completării activităţii speciale de investigaţii cu instrumente noi, cum ar fi încadrarea controlată, şi infracţiunea controlată.

Problema ştiinţifică soluţionată: constă în identificarea instrumentelor eficiente şi prompte de investigare a infracţiunilor de criminalitate organizată, ţinând cont de caracterul transfrontalier al fenomenului cercetat şi elaborarea mecanismelor globale, regionale şi subregionale de prevenire şi combatere a acestuia, prin unificarea legislaţiei procesuale comunitare şi a ţărilor în curs de aderare la UE, pentru înlăturarea impedimentelor de reacţionare rapidă şi investigare “fără hotare” a infracţiunilor de criminalitate organizată.

Semnificaţia teoretică a cercetării: prin faptul că studiul este bine sistematizat şi documentat, se oferă soluţii şi modalităţi teoretico-practice de investigare a infracţiunilor de criminalitate organizată. Lucrarea în speţă evidențiază unele probleme curente şi de viitor care pot apărea în practica de aplicare a legii procesual penale, dar şi a modalităţilor de soluționare ale acestora.

Valoarea aplicativă a cercetării: constă în expunerea materialului doctrinar, identificarea problematicii procesuale şi formularea recomandărilor practice de soluţionare a unor situaţii incerte în cadrul investigării infracţiunilor de criminalitate organizată, precum şi prezentarea propunerilor de modificare a legislaţiei în acest sens.

Implementarea rezultatelor ştiinţifice: rezultatele cercetării, concluziile şi recomandările definitive pot fi utilizate în activitatea practicienilor implicați nemijlocit în procesul de prevenire şi combatere a infracționalității organizate, în procesul de cercetare pentru formarea aşternutului doctrinal, precum şi la instruirea studenților instituțiilor de învățământ superior în calitate de material didactic. Propunerile de armonizare a legislației procesuale vor fi utile pentru perfecționarea cadrului normativ autohton.

GROPA MAXIM

CRIMINAL PROCEDURE REGULATIONS REGARDING PRELIMINARY ACTIONS AND CRIMINAL PROSECUTION IN THE CASE OF ORGANIZED CRIME OFFENCES

Specialty: 554.03 – Criminal procedural law

Summary of the doctoral thesis in law

Approved for printing:25.03.2024 Circulation 20 ex.
Offset paper. Offset printing. Paper format 60x84 1/16
Printing sheets: _____ Order no. _____

Publishing and Printing Center of the State University of Moldova, 60 A. Mateevici Str., Chisinau, MD-2016