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SOME CRIMINAL INVESTIGATIONS STRATEGY DILEMMAS OF COMBATING ECONOMIC CRIME IN SLOVENIA

In the article we examine different strategic elements of combating economic crime in Slovenia (different forms of economic crime, criminals, control mechanisms, and environment that permits economic crime). We evaluate them from the aspect of advantages and disadvantages and show their role in establishing a strategy of combating economic crime. The findings and conclusions are critically confronted with the strategy, that was defined for Slovenia by a Governmental interministerial working group.

INTRODUCTION

As a country in transition, Slovenia has been facing many difficulties in its efforts to combat economic crime. A new economic system brought about new forms of crime which had to be encountered by a different form of control institutions and by a different knowledge. New institutions were established and the old ones were reformed but too little was invested in education, knowledge, and coordination among institutions could be much better. At the first sight one would expect that the numerous new control institutions based on the west European model would be efficient in combating economic crime. A detailed analysis showed that this was not the case. Some institutions had the necessary human resources and experience, but lacked the necessary authorisation for action. Others had the authority but lacked experts with necessary knowledge. These are the main reasons that the situation in the field of combating economic crime is rather difficult.

In 1997 the Government of the Republic of Slovenia adopted a Strategy for combating economic crime. The Strategy was prepared by the Ministry of interior. Since no additional financial resources were devoted for its implementation it remained just a declaration. Five years later the Government decided to define a new strategy that would be efficient in combating economic crime. It is based on the analysis of strategic factors that brought about the situation where not a single perpetrator of grave forms of economic crime was imprisoned although many court procedures were started.

SHORT ANALYSIS OF IMPORTANT STRATEGIC FACTORS

- A serious strategy has to be based on an analysis of three strategic factors linked to:
- activities of perpetrators- what are the threats that they use most frequently, what is their knowledge, training or organisation,
 - ones own forces and means: human resources, material and financial means of state control institutions as well as their internal control mechanisms,
 - the environment in which these two groups of factors exist (Brisach, Ullmann, Sasse, 2000 or Dvoršek, 2002:39-51).

Slovenian police registers more than seven thousand acts of economic crime per year. Many of them are "false economic crimes".¹ We can conclude that the economic crime

makes 10% of the registered crime altogether. The police registers and investigates² more than 700 cases of business fraud, half less of different kinds of **abuses**, about 80 tax frauds, and about 50 cases of corruption, about 20 cases of breaches of author rights, mostly computer pirating, and a similar number of smuggling and money laundering, as well as fraud and offences linked with trading in shares and securities.

Among all registered economic crimes there are less than 100 cases of organised crime, which shows that the economic crime in Slovenia is not organised. The fact that there are about 150 legal persons against which crime reports are filled proves that corporation crime exists as well. The damage inflicted by the organised crime is approximately the same as the one that is consequence of other types of crime.³

We can conclude that certain types of criminality are less frequent in Slovenia than in some west European countries: misuse of information technology, including theft of data, misuse of electronic mail and telecommunication, economic criminal in banking (misuse of bankcards, bank transfers in telebanking), forging of luxury goods of known trade marks, false bankruptcies, smuggling to avoid taxes and ecological control, fraud on the account of EU. With Slovenia's accession to the EU this kind of economic crime will probably increase as well.

As far as the human resources are concerned it is obvious that the number of investigators does not usually adapt to the possible increase of economic crime activity. As far as police statistics are concerned the quantity of economic crime equals the number of qualified investigators. The situation used to be even worse in Slovenia. In the last years the fluctuation of human resources has been very high. In the year 2001 it reached 18.6%.⁴ Two thirds of policeman that were expected to investigate economic crime were beginners.

There were very few specialised prosecutors to investigate economic crime. They had the same problem as the police. Specialisation and obtaining special expertise was not stimulated, they did not have the assistance of special experts for book keeping, accountancy and banking. In the field of taxes the situation was not better. Newly established tax administration was expected to oversee the implementation of tax legislation. Some experts left the police to work in tax administration. But the tax inspectors act only as internal revision. They don't have the authority to lead investigation like their colleagues in Western Europe. The law that would give them these competences is still in the parliamentary procedure.

Recently an Office for Combating Money Laundering was established. It is often criticized for not being sufficiently efficient since not a single judgement had passed in the field of money laundering. But the office is one of the most active among the paragonemental institutions. It does the preliminary analysis of suspicious transactions and it establishes contact with the police if the suspicion proves to be justified. There is a problem because there is no institution that would specialise in a posteriori financial and other analysis (movement of goods for instance).

Office for Prevention of Corruption has prepared the legislation establishing a legal framework to combat corruption. The Office asked for investigation competences and did not get them. It is exercising pressure on the political structures to establish a special investigation group in the framework of the police that would be a kind of extended hand of the Office. Agency for stock-exchange was established as well. In the first two years of its work the Agency did not exercise efficiently its control function although analysing the market it was evident that inside information were being used and that insiders conclude fictitious contracts.

After the change of economic system a liberal market philosophy has been prevailing in Slovenia. This philosophy drives for profit at any price. The line between the interests of the business world and the necessary social corrections is difficult to define. That is the main reason that the adaptation of existing legislation does not follow fast enough the changes in the economic sphere. Inadequate legislation has objective reasons but it provides a relatively secure cover for different perpetrators.

EVALUATION OF CERTAIN EVIDENT WEAKNESSES

The most important weaknesses are inadequately trained investigators, first of all the police.⁵ Investigators of grave forms of economic crime need a much wider knowledge than criminology. They need education in the field of book keeping, banking, credit as well as revision services. They don't get this kind of knowledge during their regular education, so they need additional courses. But in our experience once they get this knowledge they leave the police and find less stressful and better paid jobs elsewhere.

Another weakness is inadequate organisation and sistemisation of criminal investigators. The police station in Ljubljana covers at least 45% of all economic crime as well as the most serious ones. In spite of that fact it has only 25% of criminal investigators. The Ljubljana police station has far the lowest educational level and the part of experienced criminal investigators is far the lowest. This shows that the posts are not adequately evaluated and would need re-evaluation in relation with other segments of police administration.

The logistical support for research work is a further weakness. In recent years analytical expert groups for crime investigation have been established. But this is not the case in the sphere of economic crime. This does not mean that they do not have analysts, they just do not do the things that similar analytical groups abroad do: financial analysis that would direct the police towards the perpetrators of economic crime. State prosecutors would need the same kind of support of experts in book keeping, accountancy, banking.

ELEMENTS FOR MORE EFFICIENT STRATEGY FOR COMBATING ECONOMIC CRIME

The most important element in combating economic crime in Slovenia would be in increasing the risk of discovering and judging the perpetrators of economic crime. This could be achieved by an adequate strategy. Analysis show that it is impossible to train and keep the trained police investigators without additional financial resources.⁶ According to the principle that the control mechanisms should be as close to the environment of crime as possible it is necessary to establish specialised control mechanisms with adequate competences (tax administration, customs administration, money laundering office). We should not be establishing new ones that always take the best human resources from the police (which could be welcome by the political structures because it is easier to influence smaller institutions than the relatively numerous police structure). Specialised control mechanisms can take a part of the burden from the police forces. But the most important part of mechanisms for fight against economic crime must remain in the police since it is the only one that is able to do the job.⁷

The strategy should define as the first priority the need to train the police investigators and to provide them with such a status that they would not be attractive by other better paid jobs. The most responsible for such a development is the police leadership which until now has not accepted that certain parts of police structures could have a special

treatment. It is a fact that police systems are generally guided by the principle of equality because any special treatment brings potential conflicts. Special treatment does not mean only better paid posts for a certain number of best trained investigators but includes additional financial resources for training and obtaining specific knowledge. Parallel with the investigators it would be necessary to train a certain number of state prosecutors. It is also necessary to provide the prosecutors support of experts that would work in the prosecution office. All these measures would contribute to more efficient investigation.

The need for specialisation in the fight against economic crime demands a certain centralisation as well. It would be necessary to establish ad hoc investigation groups for certain grave international forms of economic crime at the level of criminal police administration. We do not see the need to establish a special group for corruption investigation. Corruption is usually just a twin sister of abuse. That is why the economic crime investigators are the most competent to deal with it. Strategy would also have to tackle the role of the Office of combating money laundering. It has a certain amount of analytical potential for preparation of analysis of suspicious financial flows it would be acceptable that it develops into central logistic unit for financial investigation that would do analysis for all control institutions and for public (potential victims). From this aspect it would act also in the sphere of prevention.

EPILOGUE

In May this year the Government adopted a Strategy for combating economic crime in the Republic of Slovenia. It consists of five key elements (objectives): accurate adaptation of legislation, improvement of cooperation among state control mechanisms, assuring preventive activities, better training of human resources and improvement of human resources structures in the departments that are in charge of economic crime investigation. As far as the first element is concerned it includes the need for enlarging the investigation powers. This should allow cooperation of investigators from different control institutions in more complex investigations of economic crime. The second element comprises the demand to adapt the organisation of police according to the prosecution needs. It would also include the preparation of the same methodology to register criminality and linking the police, prosecutor and court registers of economic crime. The third element can not be measured and consists of a program for preventive work, modernisation of tactics and methods of work, exchange of data and information among control institutions which should assure an increase of discovered and successfully prosecuted economic crimes. The fourth and the fifth element are linked. Improving the education and training of human resources should be done through the education, training and specialisation programmes. The last element that deals with the improvement of human resource structure is the only one that is financial evaluated. It demands the increase of the level of education of investigators of economic crime and introduction of 20 new posts. It demands elimination of imbalances among comparable posts. It also forces establishment of adequate work conditions (offices, equipment and cars). The standards should be elaborated for the different posts as well as planned recruitment.

The Governmental strategy gives more answers to the questions what to do than to the question how to do it. The fact that only the last element is financial evaluated shows the problem of the authors of the strategy how to spend the financial resources that the government was ready to spend to combat economic crime. We have to acknowledge that the document is looking for the solutions in the right direction. But it is not enough systematic and elaborated in answering the question how to give the investigators more new knowledge that would increase the risk of discovering, prosecuting and successfully judging the perpetrators of economic crime.

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ENDNOTES

1. This includes forging checks, forged banknotes that usually serve as a cover for other crimes.
2. Reports on the work of the Police for the years 2002 and 2003. <http://www.policija.si> and Ministry of Internal Affairs-Problems of investigating economic crime, March 2003.
3. In the year 2001 the damage was estimated on 15 billion tolar while damage caused by other forms of crime is estimated at 16,3 billion tolar.
4. Look: Problems of investigation of economic crime, Ministry of Internal Affairs, March 2003, or Lamberger, 2002. The most important reasons for fluctuation were better paid jobs in control mechanisms outside police structures, lack of motivation because of a low number of condemnations of perpetrators of economic crime as well as bad material conditions for work.
5. The conclusions of foreign analysts show that the perpetrators of economic crime exploit bad training of state control mechanisms, their inadequate organisation and bad coordination. The consequence is low risk of discovering the economic crime. This risk is estimated in relation to the illegal gain comparing to the other forms of crime. Twelve researches (Dvoršek 2000:208-213) show an inadequate training of control mechanisms and thus low risk of arrest. It is interesting that the researchers, those that give priority to the preventive strategy as well as those that favour repressive one, stress the need for well trained investigators of economic crime. This leads to the conclusion that the increase of the risk of arrest would have preventive effects.
6. Other strategic documents show that the increase of police potentials is only assured for the protection of South (Shengen) border. For the rest a 10% decrease of posts is foreseen. In this situation the possibilities to provide relatively better material conditions for economic crime investigators are very small.
7. It seems that it would be better to extract the investigators of economic crime out of police structures and establish a special investigation unit that would be adequately financial remunerated. Such units exist in some countries for investigation of serious fraud (Serious Fraud Office, Dvoršek 2000:200). From the strategic point of view this would not be acceptable because serious crime is increasingly interlinked and linked to the organized crime, goes international and consequently requires international police co-operation. Establishment of a special unit would open more new problems than it would solve.

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