

Grigol Robakidze University

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Problems of fight against economic forms of transnational crimes

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Abstract

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General Overview of the Paper

Current significance of the subject

Crime development in the world is characterised with unfavourable tendencies. According to the comprehensive data, which are used as a guide by the world community, 500 million cases of crime have been registered in the world in 1990s. International criminology studies show that during the last 30-40 years the crime rate has increased by 3-4 times on average in the whole world, 6-8 times in the territory of the former Soviet Union, 7-8 times in the US, 6-7 times in Great Britain and Sweden, 5-6 times in France, 3-4 times in Germany, and 1.5-2 times in Japan. Growing trends for the world crime will be maintained in the nearest future: starting from the 80s, its growth rates have exceeded the number of population by 5% every year.

One of the results of global spreading of crime has been its massive internationalization. At the Eighth UN Congress on the Prevention of Crime and Treatment of Offenders, (Havana 1990) it was mentioned that the crime goes beyond the national frameworks practically everywhere and hinders the political, social and economic development of the country. Criminologists prove that high rate of transnational crime mostly is maintained because of the political and economic instability of countries and big differences among their economic development. Economic transnational crime represents a special threat.

Money laundering, theft of works of art, human trafficking, drug business, smuggling and other transnational economic events are carried out by the organized criminal groupings which have a structure with many branches and act in many countries of the world. Among these transnational formations the UN experts single out the groupings engaged in arms trade and smuggling of goods, which commit racketeering and ordered assassination, also those involved in drug crimes, gambling business, trade with stolen cars, etc. None of the countries of the world is guaranteed to stay safe from the intrusion of transnational economic groupings. In the world system the transnational integration scope of the transnational economic crime results in the need to address the problem in a special way.

International documents and special criminology studies provide broad discussion about the transnational economic crime. Almost all the UN congresses on crime prevention are regularly dedicated to this problem. Georgian law enforcement bodies and criminologists as well express special interest in this respect, and it does not happen by chance. Georgia as a transit country has always been under threat of being intruded by criminal groupings in the country. On the other hand, the occupied territories and conflict relationships with Russia directly facilitates the existence of real threat in the country. This is why the problem of transnational economic crime should be among the significant problems for the Georgian criminologists.

The above-mentioned issue in the Georgian criminology literature is discussed in the articles published in compiled publications. However, the problem of transnational economic crime substantially goes beyond the limits of these researches. It is obvious that understanding of the experience accumulated in various countries of the world is necessary for understanding the threat of transnational economic crime in reference to Georgia. In order to enable the country to diagnose the disease symptoms on time, it is necessary to know them. This is why a monographic analysis of transnational economic crime should be done.

Subject and object of the research

Subject of the dissertation paper is the transnational economic crime; its forms; common and specific features; analysis of their causes; practice of fighting against the transnational economic crime.

Object of the research is:

1. Concept and peculiarities of transnational crime and its economic forms;
2. Classification of main economic forms of the transnational crime;
3. Transnational nature of money laundering;
4. Transnational nature of stealing the works of art and items of culture;
5. Transnational nature of stealing the intellectual property;
6. Translational nature of illicit arms trade;
7. Transnational nature of fraud;
8. Transnational nature of human trafficking;
9. Transitional nature of drug business;
10. Transnational nature of smuggling;
11. Problems of domestic control of transnational economic crime within the country;
12. Problems of international cooperation;
13. Control of main economic forms of the transnational crime.

Goals and Objectives of the Research

Goal of the research is to define the concept of transnational economic crime and to describe its specific features; describe and explain common problems of controlling the economic forms of transnational crime.

Research objectives are to:

- Determine the essence of transnational economic crime;
- Classify the forms of transnational economic crime;
- Describe specific signs of these forms and determine the logic of their spreading;
- Analyse peculiarities of controlling the transnational economic crime;
- Identify main directions of controlling the transnational economic crime;
- Describe legal and criminal aspects of controlling the transnational economic crime.

Research Methods

The dissertation research is constructed based on the general scientific methodology, which provides the structure of the paper and supports implementation of its main goals and objectives.

Research findings and practical significance:

1. All the economic forms of transnational crimes will be discussed at the level of a monograph. Their classification is based on the approach developed by the UN (Naples, 1993): transnational economic crime is a form of commercial activity which is carried out through unlawful measures, or using menace and physical force, extortion, corruption, blackmail and other methods of coercion, also by attracting the restricted goods and services.

2. Signs of transnational economic crime are determined in details: 1) self-interest, 2) possibility to have it committed in the process of professional activities, 3) utilization of legal forms by the subjects of economic relationships, 4) large scale of victims, 5) hidden 'performance' of the process of victimisation from a victim, 6) having many objects (legal entities and individual performers), 7) loss inflicted to the economic interests of the state, also to the interests of private entrepreneurs and citizens, 8) multiple distribution of material assets as the result of committing the economic crime, 9) systematic nature, 10) high level of latency.

Two classification models have been identified based on the criminology researches held in the countries of the world and analysis of international documents: 1) classification of economic forms of transnational crime, which has been determined by the researchers, and 2) classification approach by the UN.

3. Firstly, main directions of domestic control of transnational economic crimes will be discussed: 1) two problems have been identified in the reaction of legal and methodological provision: on one hand, in the form of insufficient normative regulation of the transnational crime itself, and on the other hand – in the form of insufficient awareness of practical workers about the legal decisions already made; 2) problem of prevention and investigation of transnational crimes have been identified in the direction of organizational-managerial provision.

4. Following key directions of international cooperation have been identified in the research: 1) prevention directed towards the symbiosis of transnational economic and terrorist crimes; 2) prevention of transnational economic and corruption crimes; 3) prevention directed against the symbiosis of transnational economic crimes and smuggling of migrants; 4) prevention directed against the legalisation of revenues received from the symbiosis of transnational economic crimes and criminal activities.

5. Description of main economic forms of the transnational crime in the world is provided in the research for the first time.

6. For the first time, the trends of transnational nature of money laundering have been described. In this respect the tendencies of regional determination are discussed, namely, this form is related to 1) existence of large centres of drug production in the countries of Asia and Central America; 2) banking system and gold market in the countries of Middle East; 3) goods trade, cash smuggling, purchase of immovable property in the countries of southern and eastern Africa; 4) In Georgia (in the past) – existence of shadow capital, high income taxes, and the existence of clans and occupation troops in the occupied territories.

In this respect the models of controlling the money laundering in the world are identified: 1) US model, which declares unlawful activity or crime to be the source of money laundering; there is a same model in Georgia too; 2) model of the countries of Central America, where only the drug-related business is considered to be the source; same model is shared by the African countries; 3) Italian model, where the source is regarded to be the activity of mafia-type organisation; same model exists in Germany as well; 4) Belgian model, where the group of crimes is listed casuistically, which is a source of money laundering.

7. Transnational development stages of stealing the works of art and cultural property have been identified: 1) crime committed by the local organized groups (at the end of the last century) and 2) in modern days – creation of international enterprises and cooperatives for implementing the crime. This crime is being “industrialized”.

The concept of immunity of cultural properties developed by the 1954 Hague Convention is discussed in details, which envisages protection of cultural property during peaceful times and respecting them during period of armed conflict, which is not observed by Russia in regards to the Georgian heritage in its territory, also in the occupied territories of Georgia.

8. It has been determined that stealing the intellectual property has undergone two stages of evolution through violating the copyright and performing rights, also protection of copyrights and unlawful usage of trademarks: 1) during the period of incepting the transnational connections, spread of this crime was related to the socio-economic peculiarities of a specific country. This is why its spread depended on the demand existing in this country; 2) at the current stage, stealing of intellectual property was more related to the software facilities, information is unlawfully received through powerful software. Here too, there is a tendency revealed that such form of crime is done through the way of “industrialisation”.

It has been determined that at the current stage, stealing of intellectual property was more related to the software facilities, information is unlawfully received through powerful software. This is why the prevention measures should directly consider the evolution of this crime.

9. While analysing the illicit transnational trade of arms, following trends have been identified: 1) border-line between the legal and criminal trade is becoming much fader; 2) Drug dealing and arm trade are becoming more and more interlinked. Not only the state (e.g. African countries, Russian occupation regimes, etc.) but also large criminal groupings are involved in this process, which are linked to the country’s government via corrupted linkages.

Illicit arms trade in modern conditions changes the form of its development, which is revealed in the form of two tendencies; 1) borderline between the legal and illegal delivery of armaments is ruined, and it is determined by the social-political interest of the consumer and not of the country; 2) Drugs and arms trade is becoming more and more interrelated.

10. It is determined in this paper that the transnational fraud, as a rule, is done through international organisations. With this purpose the most “effective” one is a pyramid , speculation on internal information and offshore investment. This crime is special because it has a precondition - an organisational entity of entrepreneurial nature. Condition for the transnational implementation of fraud is the organisations specially established to this effect.

11. The paper identifies following tendencies of transnational human trafficking: a) women trafficking is a highly profitable field and is characterised with relatively lower risk compared to the drug and arms trade, which reduces the costs of investing money and increases possibility of getting high profit; 2) children trafficking is supported by the globalisation of family crisis in countries of the world (countries of Africa, China etc.). “Giving up a child for adoption”, selling a child, sending a child to the army or to the party involved in conflict (in African countries), etc. are considered to be the way of overcoming the social problem; 3) Demand on cheap labour is

increasing in the countries of the world, which is satisfied by hiring the people living in relative or extreme poverty. Forced exploitation of labour force also reduces costs and increases profit.

12. Based on the criminology researches implemented in the countries of the world it is determined that rapid growth of illegal production and usage of drugs in many countries of the world represents one of the most dangerous tendencies of the last decades. Its chemical industrialisation is the most important trend of developing the contemporary drug business. Illegal production of synthetic substances acquires a nature of a well-regulated industry.

13. The paper identifies main trends of transnational smuggling: 1) low level of citizens welfare, which pushes a person to participate in illegal business because of desperate situation, 2) geopolitical position of the country (for example, violating the border regime by Russia, maintenance of separatist regimes, etc.).

Theoretical and Practical Significance of the Research

Theoretical and practical significance of the dissertation paper is that the produced conclusions will assist the state agencies, among them the law enforcement bodies. By determining the logic behind the transnational economic crimes, theoretical basis will be established for broadening the legal and criminological understandings towards this issue. The developed conclusions will support the study of criminology.

The research and recommendations provided in the paper will also have practical significance for the undergraduate students who are interested in studying the problems of criminology.

Approbation of the Dissertation

Approbation of the dissertation took place at Grigol Robakidze University. Research results are provided in 4 (four) scientific articles, which are published in magazines valid for references and reviews. Main provisions of the research have been approved by the expert-evaluation committee of the university.

Volume and Structure of Dissertation

Volume and structure of the dissertation have been conditioned by the research goals and objectives. The dissertation consists of 329 pages typed according the standards. It consists of the preface, six chapters with twenty four paragraphs and conclusion. The paper is also attached with the references (list of the referred literature) and annexes.

Content of the Paper

Chapter One is dedicated to the concept and characteristics of transnational crimes and its economic forms.

The First Paragraph discusses the peculiarities of transnational crime and its economic forms. With the purpose of addressing this issue, the main emphasis is laid on the definition of the concept of transnational crime and signs of transnational economic crime.

Concept of transnational economic crime has been developed in the countries of the world in different ways. In the west, source of emergence of this crime is related to the participation of criminal elements in the field of legal economy. In the post-Soviet republics this crime was incepted directly in the legal economy. This is the key to different approaches towards the concept of transnational economic crime.

Report of the UN Office on Drugs and Crime (UNODC) provides general description of transnational economic crime (1993). The concept of transnational economic crime has been established finally, which was stated at the world conference held at the ministerial level (Naples, November 1994): transnational economic crime is a form of commercial activity which is carried out through unlawful activities, intimidation and physical force, extortion, corruption, blackmail and other methods of coercion, also by attracting the restricted goods and services.

International documents provide detailed definition of signs of transnational economic crime: 1) self-interest, 2) possibility to do it in the process of professional activity, 3) applying legal forms by the subjects of economic relations, 4) large scale of victims, 5) hidden “implementation” of the victimisation process out of victims, 6) having many subjects (legal entities and individual performers), 7) damage done to the state economic interests, also to the interests of private entrepreneurs and citizens, 8) distribution of material values many times as the result of committing the economic crime, 9) recurring nature, 10) high level of latency.

The Second Paragraph provides classification of main economic forms of transnational crime. Emphasis is laid on two issues: 1) classification of economic forms of transnational crime, which are determined by the researchers and 2) UN approach to classification.

Unlike the UN classification, the classification of transnational crime in criminology researches is represented in different ways. In regards to identifying the forms, following criteria are dominating in various theories: in accordance to one of the approaches, it is important to identify the forms of transnational economic crime based on the dissemination criterion. In this respect 1) transnational crime and 2) international crime are distinguished. According to the second

approach, the focus is made on organized crime and its goal. In this respect the following forms exist: 1) spontaneous and business-crime forms.

According to the UN documents, the following belong to the direct economic forms of transnational crime out of the given classification: 1. money laundering; 2. appropriation of works of art and things of culture; 3. appropriation of intellectual property; 4 illicit arms trade; 5. fraud; 6. human trafficking; 7. drug business; 8. smuggling.

Chapter Two of the paper provides the description of main economic forms of transnational crime.

The First Paragraph describes transnational characteristic of money laundering. In this respect, the problem of regional determination of the form of this crime is described in details. Much empirical material has been used in the research, which was received from the criminologists of foreign countries.

While describing the criminal conditions of the countries of Asia it has been determined that transnational money laundering is related to the existence of large centres of drug production (Burma, Thailand, Laos, Afghanistan, Iran). Countries of the Caribbean basin represent significant transit point for transporting drugs from the Central America to the US. Russian criminal groupings establish linkages with other groupings operating in the region, among them with the Italian mafia and Columbian cartels, which does much harm to the banking system of the region.

Specific logic of money laundering is identified in the countries of Middle East and Africa. Based on the opinion of GAFI's experts it is determined that banking systems and gold market are most often used for laundering the capital in the Persian Gulf states. Significant threat is coming from criminal groupings of other countries of the world to the remaining states of Middle East, as far as this is where those groupings try to launder their money.

Most widespread method of money laundering in the countries of south and east Africa is to buy and resell goods, cash smuggling, purchase of immovable property (casino or high-class hotels), opening the private banks and currency exchange outlets, activities of which are not regulated, as a rule. As for the West Africa, here the groupings of Nigerian criminals are especially active, which are engaged in drug dealing and carry out wide scale fraud operations.

The research distinguishes the peculiarity of criminal functioning of Chinese triad. The research also emphasizes the conclusions of criminology researches where the functioning and direction of Columbian cartel is described. With the purpose of comprehensive discussion of the issue, the research provides the analysis of functioning of the Sicilian mafia for the growth of power at the national level.

The paper provides a comparative-criminology analysis of the issue under discussion. In this respect the focus is made on the conclusions obtained by the Georgian scientists: 1) there existed

a significant shadow capital for the moment of initiating the market economy reforms in the country; 2) quite high income taxes supported the tax evasion; 3) consequently, turnover of illicit cash started in Georgia; 4) transfer-pricing was spread in the export-import transactions.

The Second Paragraph deals with the transnational nature of stealing the pieces of art and items of culture. It has been established that pieces of art with the value of 4.5 billion dollars are got hold of every year with the purpose of their sale at the world market. In Italy, theft of culturally valuable items with the value of more than 2,000 USD is reported annually. Since 90s, valuable items of more than 300 billion have been stolen from the Russian museums only, and works of art with the value of 92 billion Euros have been stolen in France.

The paper is focused on the latency of these crimes. Latency rate of this type of crime is quite high, as far as not everybody reports the theft. The reasons are: works of art may have been obtained as a result of illegal activity; it can be a case of extortion when money is extorted from the owner in exchange to the stolen item; sometimes it is simply impossible to announce search for the item as far as the owner cannot provide the data about the thing.

The following tendency is that the significant part of cultural property is taken away by the citizens who move abroad to live there permanently.

Besides, the report lays the emphasis on the fact that a new channel of taking the items of cultural value abroad has been identified recently, which is related to the international activity of joint ventures and cooperatives in the field of cultural heritage.

The form of this kind of crime is quite widespread in the occupied territories of Georgia. Churches and citizens' houses are robbed, suspicious archaeology 'researches' are held. Stolen things are taken to Russia where it is distributed to other countries for sale. Transnational theft of pieces of art and those of the items of culture are not spread in other parts of Georgia.

The Third Paragraph of this Chapter provides the discussion of transnational nature of intellectual property. Theft of the intellectual property includes the violation of copyright and performing rights, also protection of copyrights and unlawful usage of trademarks. Copyright has double economic nature, which is stated in the Article 27 of the Universal Declaration of Human Rights. On one hand it protects the rights of people engaged in the fields of literature and arts, and on the other hand – provides access to the protected items.

The paper also establishes that the loss incurred from illegal usage of software only totals 12 billion USD in the developed countries. Share of the production spread by violating the copyright, i.e. share of counterfeit production in various fields reaches 90%. This event acquired the forms of an organized crime, and is characterised with a big threat to public. During the last two years only, the value of this production has increased up to 250 US dollars. Until recently, the leader of illegal production was China (including Hong-Kong), Taiwan, Malaysia, Macao,

Bulgaria and Czech Republic. Currently the production of illegal compact discs has a tendency to move to other countries.

The paper also highlights the tendency of spreading the copyright violation in the fields of polygraph and book printing, which is reaching 70%. Transnational nature of stealing the intellectual property is also reflected in the public broadcasting of unlicensed programs. The paper pays much attention to the entrepreneurial spying, as the means of stealing the intellectual property.

As a conclusion it is mentioned that the crime related to the copyright violation mostly creates the basis for other serious economic crimes (illegal usage of trademark, false entrepreneurship, aversion of tax and customs fees, deception of consumers, etc.).

The Fourth Paragraph discusses the transnational nature of illicit arms trade. Emphasis is laid on the universally established logic that today the illicit arms turnover lags behind the drug business industry only.

Based on the opinion of many researchers it is established that difference between the legal and illegal supply of arms is determined by the user. The borderline between them is very fragile. Illicit arms trade, as it is in case of the legalized trade, is based on making the profit.

Increased demand at the illegal markets is also conditioned by political instability and related conflicts. Currently Russia has become the region of quick expansion of black business of arms. Besides, Russian armed forces represent the biggest and the most stable source of arms supply to the conflict zones. The occupation forces in Abkhazia and Samachablo is not an exception.

Another important fact is that drug dealing and arms trade is becoming more and more interlinked. Main concerns for UN member states is the illicit spread of individually used firearms (pistols, assault rifles) in the world. Big part of arms, which are sold at the black market of the world, have been taken away from the state security forces of Afghanistan and West African states.

The Fifth paragraph talks about the transnational nature of fraud. Following transnational forms of fraud are identified in this direction: Pyramid (Ponzi Scheme) speculation on internal information (Pump and Dump) and offshore investing.

According to the data of English and French criminologists, the Ponzi Scheme of fraud means that the money of new investors is used for paying the revenues of existing investors. The pyramid is ruined when the amount to be paid to the existing investors exceed the amounts received from new investors. Any pyramid is ruined sooner or later. This Ponzi Scheme is applicable to the investor of many states who get bankrupt as the result of the fraud.

The Sixth Paragraph discusses the transnational nature of human trafficking. For identifying this problem, the paper points out the peculiarities of trafficking of women, children, also the human trafficking for forced labour exploitation.

Women Trafficking –any action that deals with the movement of people within the state boundaries or through them with the purpose of sexual exploitation.

Groups of organised crime in Israeli could manage to invest the revenues, received as the result of women trafficking from the USSR, in legal business. It was determined that since the 90s, 2.5-4 billion US dollars were deposited in the banks and 600 million – in real estate.

UN experts estimate that the volume of women trafficking in the world, as a volume of sex industry goods is within the range of 7-20 million USD a year. According to the data of International Organization of Migration, turnover of the business of illegal movement of people totals 6 billion USD a year. According to the UN data, every fourth person out of 4 million trafficked people is exploited in the sex-industry.

There are different methods of selecting a woman for exploitation. They are determined based on the demand and supply, culture of the nation, economic conditions and other social factors. Besides, despite the differences, common features are still shaped. The most widespread selection method is the announcement of highly profitable job abroad published in the newspaper. Marriage agencies, or so-called international matching services and tourist agencies play an active role in women trafficking.

Health research in the sex industry shows that these women have serious problems and often their life is under threat. The women are suffering from infectious and sexually transmitted diseases, drug or alcohol abuse, depression and other mental disorders.

Women trafficking is a highly profitable field, with a lower risk compared to the drug dealing and arms trade.

Children trafficking is the next criminal form. Illegal traffic of children mostly aims at sexual abuse and adoption. However, the set of factors generating the causes of illegal trafficking has many things in common with the determinants of women trafficking. Children trafficking also has some peculiar features.

Simplified regulations of assessing the potential adoptive people, which exist in some countries, belong to the social-legal factors. The next group of factors is related to the regulation of legal issues on taking children abroad. Illegal trafficking of children is supported by the social factors related to the condition of families and the child.

Trafficking with the purpose of forced labour also represents a dangerous criminal form. According to the criminology researches it is determined that currently there are at least 12,3 million victims of forced labour in the world. Out of this total number, 9.8 million people are

exploited by private agents, among them 2.4 million people are engaged in forced labour due to the practice of human trafficking. Another 2.5 million people are forced to work by military-like state or riot groupings.

The biggest number of people engaged in forced labour – 9 million 490 thousand people were registered in Asia. 1,320,000 people were reported to be engaged in forced labour in the countries of Latin America and States of Caribbean Basin. In the countries of the developed industry, among 360,000 people engaged in forced labour and among 210,000 people engaged in forced labour in the countries of transition economy, the dominating one is the labour with the purpose of sexual exploitation. however, in the countries of developed industry, one fourth of the workers engaged in such labour are used not for the purposes of sexual economic exploitation.

About one fifth of people engaged in coerced labour in the world (2.45 million) are the people involved in human trafficking. Biggest part of the victims of commercial sexual abuse is women and young girls. Share of representatives of both genders in the field of forced economic exploitation is almost the same, but the women and young girls still make up 56% of victims. According to the assessments, children under 18 constitute 40%-50% of total number of the victims of forced labour.

There is a fact emphasized in the paper that at the end of the XX century and at the beginning of the XXI century the human trafficking is becoming the subject of international concern. There is a big gap in the world between the welfare levels within the country, also among the developed countries, where the demand has increased on cheap labour. The number of people living in relatively or extreme poverty is increasing, who are ready to leave their fatherland in their search of better living.

The Seventh Paragraph discusses the transnational nature of drug dealing. In this respect, the paper is focused on the tendency of *illegal production and usage spreading* of drugs. It has been determined that in many countries of the world, rapid growth of illegal production and usage of drugs represents one of the most dangerous of recent decades. According to the data of 77 countries, illegal drug dealing throughout the world is characterised by the following parameters: 27 tons of cocaine, 25.5 tons of opium and 14 tons of heroin were seized in these countries in 1990. Moreover, the police is identifying only 10-15% of total volume of drugs that are spread illegally all over the world. Today the revenues of narco-mafia in the world reaches a colossal number – 600 billion US dollars a year.

Findings of criminology researches reveal that coke, poppy and opium plant are widely spread in the South America. This region represents a world leader in producing drugs from raw plants. The researches also indicate that illegal production of opium is increasing rapidly and now its volume reaches 4 thousand tons a year. Illegal production of heroin in the districts of “golden triangle” (Burma, Laos, Thailand) and “Golden Crescent” (Afghanistan, Iran, Pakistan) now totals about 570 tons a year.

One of the most important world trend of drug business development is its industrialization. Illegal production of drugs acquires the nature of well-organized industry. The next trend is the increased share of synthetics.

Key factors of drug business development have been identified as the result of the performed analysis: weak government and inability of the state to perform effective control over the territory under its jurisdiction (e.g. in Bolivia, Columbia, Peru); policy of turning a blind eye to the drug business by the state (e.g. in Pakistan); political and economic instability; weakening and dysfunction of social institutes; spread of corruption; increased demand on illegal goods; inequality between the countries of developed industry and the developing countries; economic crises, which provide incentive for finding the ways of improved financial situation in the illegal business.

The Eight Paragraph deals with the transnational nature of smuggling. Main causes of growing this event are: unjustified high rates of certain types of taxes and fees; low level of tax and feecontrol; corruption of law enforcement and controlling bodies; irrelevance of tax and fee rates, also of economic situation, low level of citizen welfare, when the people with lower welfare choose to participate in the illegal business due to their desperate situation.

transnational nature of smuggling keeps its presence in breakaway regions. Smuggling in the regions of Tskhinvali and Abkhazia has become a very burning problem for Georgia. The situation is complicated by the whole spectrum of geopolitical issues, and most specifically, the goal of Russia – to use Abkhazian and Ossetian separatism as an instrument of influencing Georgia, i.e. to make the latter stay under its influence. Russia actively resists finding of an alternative ally by Georgia and to secure its own national interests.

Chapter Three of the research is dedicated to the general problem of controlling the economic forms of transnational crimes.

The First Paragraph provides the discussion of the problems of controlling the transnational economic crimes within the state. While generalizing the materials of researches conducted in various countries, the paper establishes the following problems of activities of law enforcement bodies, addressing of which substantially influences the condition of transnational crime:

A problem of legal and methodological provision. This problem is represented in two forms: on one hand, in the form of insufficient normative regulation of transnational crime itself, and on the other hand - insufficient awareness of actual workers about the legal decisions which have already been made, also, methodology recommendations and developments in regards to resolving and investigating the transnational crimes.

Problem of organisational-management provision. Evaluation of specialisation of officers who are engaged in prevention and resolving transnational crimes, is not regarded as an objective necessity by the majority of the personnel of the bodies under the ministries of interior. This is

linked to the structural setup of departments offered by them, which are professionally engaged in prevention and investigation of transnational crimes.

The Second Paragraph discusses the problem of international cooperation. In this respect it is mentioned that following provisions can be singled out after summarizing the analysed responses obtained by the UN Congresses from quite a big number of country representatives:

1. Prevention against the symbiosis of transnational economic and terrorist crimes. There is a tendency of growth of alarming effectiveness of terrorist acts and public danger. Also there is a realistic threat that the terrorists may add some radioactive materials to explosives, which may contaminate governmental buildings, trade centres, etc. with radiation and disable them.

2. Direction of preventing the transnational economic and corruption crime. At its sessions, the UN Congresses on the Prevention of Crime and the Treatment of Offenders have substantially continued to review the concerns and proposals of the states in the direction of international code of conduct of officials of the country involved in project prepared in accordance with the resolutions of the last four UN Congresses on the Prevention of Crime and the Treatment of Offenders. There was also an opinion expressed in this direction that the effectiveness of the Code under consideration can be sufficient in case if it matches the system of other organisational activities, such as the legal procedures of employment, professional development, respective remuneration of officials, etc.

3. Prevention targeted against the symbiosis of transnational economic crimes and illegal transfer of migrants. In this connection, the ninth congress of the UN is especially interesting. In one of the resolutions, which deal with the elimination of violence against women, the UN members were offered to study the ways of criminal prosecution for the crimes such as human trafficking, exploitation of prostitution, etc.

4. Prevention targeted against the legalisation of revenues from the symbiosis of transnational economic crime and the criminal activities. Among the significant moments, which were reflected in the answers of responding countries, negative role of legalizing the revenues received from criminal ways have been identified in the development of transnational economic crime.

Chapter Four is dedicated to the control of main economic forms of transnational crime.

The First Paragraph provides the discussion of the issue of money laundering.

In accordance with the US Law on Money Laundering (1996), the financial transaction is regarded to be the case of money laundering, if the person knows that the resources involved in this transition bring illicit revenues, or if the person is carrying out this financial activity.

In the countries of the American continent, any property, benefit or profit in and outside the territory of Canada, which has been acquired or received personally or indirectly, is considered to be the revenue from criminal activity.

Majority of the countries of Central and Latin America ratified the Vienna Convention on Drugs, but the laws on confiscation are more widespread than the criminal punishment for money laundering, and it is limited to the drug related crimes only.

Control on money laundering in Europe is characterised with certain peculiar features. For example, Gamma-Vassale Law (1990) in Italy instituted criminal responsibility for money laundering transactions, and for making transfers in the amount of more than 20 million Lira, and for the first time in the legislative practice of the world, provided the definition of “Mafia-like criminal organization”. In accordance with the law of January 11, 1993, in Belgium the financial resources are considered to be “dirty” if they have been obtained as the result of criminal activity, such as terrorism, organized crime, smuggling of drugs, arms and valuable items, illegal usage of labour force, trade with live goods. In Great Britain, omission of financial institutions is also considered to be the crime, if it facilitated the legalisation of funds received through illegal ways. In Germany, in accordance with the Criminal Code, money laundering is the “legalisation” of money, which has been obtained as the result of large and minor grime, and which has been committed by the members of criminal organisation.

Measures for fighting against money laundering in Europe have some peculiar features. In accordance with the Criminal Code of Austria, money laundering is the case of receiving illicit revenues and membership in a criminal organisation. In Russia, money laundering is the legalisation of revenue that has been received through criminal ways.

In the countries of Africa, the issue of money laundering is related to the policy of fighting against drug business. Majority of the involved countries of southern and eastern Africa expressed the desire to develop unified attitude towards the problem of fighting against money laundering, and to establish an interstate organisation of financial methods for influencing the money laundering in the region.

The same attitude is reported in the countries of Asia. Japan expressed opinion that fight against illicit revenues should take place together with the prevention of the crime that represents the source of such revenues, with confiscation of illicit revenues and prevention of money laundering and hiding of assets. Besides, it is necessary to ensure transparency of financial deals. Qatar also has the same position.

Thailand assigns special significance to the prevention of and fights with laundering of money received from criminal activity, also to the prevention of drug crime. There are two laws passed in the country which refer to such crimes: law on measures of restraint against the people who have committed drug related crimes (this law grants authority to the competent bodies to conduct surveillance and arrest the criminal, also to confiscate the property), and the law on mutual

assistance in the issues of criminal justice, which is focused on strengthening the international cooperation between the law enforcement bodies of Thailand and law enforcement bodies of foreign countries, in the field of information collection and implementing procedural actions against criminals.

Australia has developed a set of comprehensive measures, which represents the common systemic attitude for addressing this problem. One of the main differentiating feature of this attitude was to adopt the legislation that is focused on identifying the key aspects of organised crime, namely, on laundering the money and revenues from criminal activities.

Issue of controlling the money laundering in Georgia is tightly linked with the activities of fight against corruption. Together with making amendments and addenda to the legislation, on February 17, 2004 the Parliament of Georgia ratified the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, made in Strasbourg on November 8, 1990. With the purpose of implementing the provisions of this Convention, on February 25, 2004 the Parliament adopted the law on supporting the prevention of unlawful legalisation of revenues. Georgia is a member of various international anti-corruption organisations. On February 13, 2004 the Parliament made amendments to the Code of Administrative Proceedings and to the Organic Law on Prosecutor's Office. With these legislative acts, now the prosecutors have more broadened rights to refer to the court regarding the seizure of the unjustified and illegal property for the favour of the state. In accordance with the requirements of these laws, if during the consideration by the court it is proved that the official, his family members or close relatives have unlawful or unjustified property (i.e. the property, for which it is impossible to provide documents for proving the ownership), it should be handed over to the legal owner, or, if there is none, to the state. During the same period the amendment was made to the law on conflict of interest and corruption in public service, according to which a person cannot be appointed to the state position of high level of responsibility until he submits the data about his property status at the Information Bureau of the Ministry of Justice. At the same time, a seeker of a nomenclature position should explain the origin of valuable property stated in the declaration.

The law on conflict of interests was amended in 2009. During the recent period, the system of property declaration has not been amended substantially, except for the institutional arrangement. The public service bureau is responsible for collection, timely receipt and publishing of declarations.

Since the end of 2009, all the declarations on property issues has been published on the web-site of the Bureau, which provides possibility for the control by the public. Before this, the declared information was published only upon request.

The Second Paragraph discusses the control of theft of pieces of arts and items of culture. ON August 7, 1954, the Hague Convention for the Protection of Cultural Property entered into force. The Convention and its protocol were adopted at the conference in the Hague (the Netherlands),

which took place on April 21 – May 14, 1954. This international agreement is the first document in the history, which is dedicated to the protection of cultural property in the event of armed conflict. It was developed based on the so called Roerich Pact, several years after mass destruction of cultural property during the Second World War.

For the first time in the international practice, definition of cultural property was provided in the Hague Convention. According to the Convention, the term "cultural property" shall cover, irrespective of origin or ownership, movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, archaeological sites, works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections despite the origin or belonging. Protection of cultural property shall comprise the safeguarding of and respect for such property, which is based on the principle of their "immunity" during the hostilities or occupation.

On March 26, 1999 the Second Protocol was adopted at the diplomatic conference in the Hague for the Hague Convention of 1954. This Agreement filled up the convention provisions with new norms, which are focused on strengthened protection of cultural property during the period of armed conflict, and on ensuring more effective performance of international obligations by the states in this field.

The system of protecting the cultural property envisaged in the Hague Convention contains the general safeguard which envisages the protection of cultural property during peaceful times and their respect in the period of armed conflict, i.e. their protection from damage and destruction, theft, robbery, vandalism, any repression measures that are carried out against this property. The Convention also envisages offering the special protection regime for cultural property, which has "very big significance", also increased protection regime of the property, which has "greatest importance for the mankind".

The legislation of Georgia on exporting the cultural property abroad and on importing them in Georgia consists of the Constitution of Georgia, international agreements and treaties, the law referred below and other normative acts. Legal ground for controlling the theft of works of art and items of culture, are mostly represented by the law on exporting cultural property abroad and their import to Georgia (21.06.2001). Goal of this law is to protect the cultural heritage of Georgia, cultural property existing in the territory of the country, from their illegal export from Georgia and from performing archaeology excavations without permissions. The law supports the strengthening of cultural relationships of people of Georgia and other states, and provides possibility to get familiar with cultural property; it also ensures protection of cultural property which has been temporarily imported to Georgia by the individuals and legal entities of Georgia and foreign countries, and also ensures timely return of these items if taken temporarily out of Georgia. This law determines a unified rule of exporting the cultural property of Georgia abroad, and for importing them to Georgia.

In accordance with the Article 7 of the law, it considered illegal to export cultural property abroad, or to import them to Georgia and transfer the right to ownership on them, if the requirements provided in this law or in the legislation of Georgia have been violated. It is also considered illegal to export the cultural property abroad, or to import to Georgia and transfer the right to ownership on them, if it is a direct or indirect result of country's partial or full occupation by a foreign state, or losing the state jurisdiction in some part of the country due to other reason.

Criminal Code of Georgia has a provision in regards to the requirement of this law. Namely, Article 259⁴ prohibits unpermitted export from Georgia of monuments, archaeology objects or other cultural property envisaged in the legislation of Georgia, and punishes such action with fine or deprivation of liberty for the term up to two years.

The Third Paragraph is dedicated to the control of theft of intellectual property. With the purpose protecting the copyright and other neighbouring rights, the law on "Copyright and "Neighbouring Rights" was passed in Georgia, which granted the special right to the holders of copyright and other neighbouring rights, to claim the right to get the damage compensation from the offender, including the lost revenue, seizure of revenues received by the offender, and taking other statutory protection measures. There are normative acts functioning in the country for the purposeful protection of software and databases.

The Article 189¹ of the Criminal Code of Georgia envisages criminal responsibility for the unlawful usage of other's trademark, service mark, name of the places of the goods' origin, or for similar marking to homogenous goods, also for the receipt, usage, and disclosure of scientific-technical, production or other trade information, among them the commercial secrets, without the consent of its owner.

Measures for controlling the theft of intellectual property are of complex nature. Among them the leading role is assigned to the issues of legal regulation. As it is pointed out, before current Civil Code of Georgia was adopted in 1997, the copyrights were protected by the Civil Code of the Soviet Socialist Republic of Georgia, which contained a special Title Four "Copyright Law". The Title consisted of 40 articles and was in full compliance with the copyright law of the USSR. This Code was introduced in 1965 and instituted the protection of property rights (by the disposal by the state), also of personal non-property rights. Besides, it should be mentioned that the protection of neighbouring rights were not considered.

The situation was improved by the copyright law provided in the Civil Code of Georgia (Section IV "Intellectual Property Law", Title I "Copyright Law", Articles 1017-1099), and for the first time in Georgia it introduced the protection of rights of performers, producers of phonograms (videograms) and broadcasting organisations. In accordance with the Civil Code, the duration of the effect of special copyrights was set for 50 years since the day of death of the author. Duration of the neighbouring rights was also set for 50 years, but calculation of this term was related to

the first performance, recording or publishing of phonogram (videogram), or the first airing of program produced by the broadcasting organisation.

In accordance with the Article 1508, the effect of the copyright and neighbouring rights, which were protected at the times of the Soviet Union, was prolonged retrospectively for 25 years instead of 50. The law of Georgia on copyrights and neighbouring rights entered into force in 1999, adoption of which resulted in termination of the effect of copyright legal norms presented in the Civil Code. There was one norm in the Civil Code regarding the protection of copyright and neighbouring rights, with reference to the law on copyright and neighbouring rights. This law extended the effect of copyrights for 70 years, as it was aimed at harmonizing the law with the European legislation.

In its fight against transnational crime, Georgia joined the Berne Convention for the Protection of Literary and Artistic Works (adopted on September 9, 1886), according to which the Governments of the countries of the Union reserve the right to enter into special agreements among themselves, in so far as such agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to this Convention. The provisions of existing agreements, which satisfy these conditions, shall remain applicable.

The Forth Paragraph discusses the control of illegal arms trade. Currently there is no any general law on armament control, neither is there any international court that would consider the claims and cases related to this. This is why despite the humanitarian opinions of the United Nations, some state continues to supply arms actively in the zones of warlike conflict. Control and evaluation of real situation in the field of illegal arms trade is very difficult. First of all, this crime is related to the fact that large quantities of arms are already in turnover. Besides, big part of the 'black' market is represented with the products of small volume, and it is very difficult to block its smuggling completely. Heavy systems of armaments, for which the control of transfer is easier to regulate, occupy relatively small share in the total volume of 'black' market of arms from the standpoint of its value.

Certain measures, which need to be taken for reducing the volume of illegal arms trade, are absolutely clear.

First of all it is necessary to take measures for not allowing the counterfeit production of arms at the state level of respective countries.

Destruction of excess supply of armaments should be under strict, among them international control, for which respective agreements should be made. In this respect we need to point out that in some countries the registry and control of armaments stored in military warehouses for a long time are not reliable enough. First of all it refers to the firearm and ammunition.

Practical realisation of these measures provides possibility to reduce the segment of illegal arms trade. For the current moment, counterfeit light firearms make up the lion's share at the 'black'

market. The second popular one is the shell launcher weapon and portable air defence missile complex. According to the centre for analysis the arms trade in the world, share of illegal trade for these three categories may reach 10%-20% of legal sales.

According to the Georgian criminologists, main source of supply for armed groupings and organized criminal groups come from the unlawful production of firearms. Works are performed at the UN in three directions:

- the first direction, within the frameworks of the protocol against the illicit turnover of firearms envisages the creation of a system for issuing state license, also provision of legal manufacture, sale, also marking and identification of arms. It also implies confiscation, attachment and destroy of illegally manufactured or imported firearms;
- The second direction envisages continuation of works for additional international activities with the purpose of identification of illicit firearms and light armaments, also instituting surveillance on them;
- the third one is about imposing control over the intermediary activities in the field of trade with arms and light armaments.

Article 236 of the Criminal Code of Georgia envisages responsibility for unlawful purchase, possession, carrying, manufacturing, shipping, forwarding or sale of firearm (except the hunting gun with smooth-bore), combat material, explosive materials or explosive devices.

The Fifth Paragraph refers to the control of transnational fraud. Necessity to fight against this kind of fraud, in general, is provided by not only the accelerated renewal of transnational forms of fraud, but also the special rapid growth of their registered volume. In recent years the speed of growing the volume of registered fraud in many countries of the world is far more than the similar average indicator of the world. Problem of fighting against the transnational fraud is complicated by the high level of latency of fraud, which does not provide possibility to argue for sure about not only the real volume of dangerous actions containing the signs of fraud, but also the real trends in the changing qualitative and quantitative features of types of this crime.

Legislative regulation of the fight against fraud remains a problem in various countries. This is why, in this respect it is important to refine the international legislation (among them the criminal, administrative and civil legislation), and other normative provisions for fighting against fraud.

It is also equally important to develop organisational-structural basis for fighting against fraud considering the experience accumulated by various countries of the world, in regards to the issues of investigating the transnational fraud.

During the fraud, in connection with the development of information-based deception, much importance is assigned to prevention, investigation, punishment of fraud, ensuring post-

penitentiary control of fraudsters, and to the development of information-methodology provisions for activities focused on the compensation for damage done through fraud.

Perfection of the system of human resource development is obviously very important for the law enforcement bodies, which have competency in the field of fighting against fraud, considering the specifics of fraud committed in various sectors of economy.

And lastly, it is important to develop international cooperation in the field of fighting against transnational fraud, primarily against its organized forms.

There is no doubt that each specified direction of social control deserves independent in-depth research. Besides, it is important to note that in determining the priorities while addressing the problems of developing the concept of fight against fraud in various sectors, the police-like methods of fight should occupy subordinated position in reference to the information, political, civil legal norms.

We consider that Georgia should also develop the concept of fight against transnational fraud. This approach is very important in the contemporary world, as far as transnational fraud, in fact, includes all fields of economy, starting from production up to manufacture of raw materials and goods.

The Sixth Paragraph provides the discussion about control of human trafficking. Trafficking of women with the purpose of sexual exploitation is not something new. With the purpose of fighting against this happening, international laws were developed and ratified as early as in the beginning of the century. In 1949 the General Assembly of the United Nations adopted the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. In 1998 Sweden adopted the law on violence against women, which defined a new type of crime – “significant distortion of the unity of the woman’s personality”. Prostitution was involved in the types of violence against a woman. Since January 1, 1999 “purchase of sexual services” was prohibited and became punishable with fines and/or deprivation of liberty for the term of up to six months.

In many countries of the world, criminal fight against trafficking and exploitation of women, which is mostly related to their involvement in prostitution or coercion to do so, has been implemented through determining the criminal responsibility.

International cooperation in the fight against trafficking and exploitation of women and children is especially significant. In this direction the priority direction for establishing the international cooperation is the practice of preparing specialised bilateral and multilateral agreements, which are accompanied with detailed parallel comments on legal norms.

Creation of unified interstate database regarding all cases of various forms of illegal movement and exploitation of women and children is of current significance. Coordination of complex

measures of fighting against this form of crime acquires special importance. Besides, it is also important to train specialists who will be specialized in identification, resolution and investigation of crime related to the organized forms of illegal adoption, trafficking of children and their exploitation in any form, which is also related to moving women abroad through deception (kidnapping) and their sexual exploitation.

Control of human trafficking with the purpose of forced exploitation consists of several directions: broadening the international agreements; formation of principles of International Labour Organisation; formation of key prevention measures of the fight; development of complex nature of prevention measures; harmonisation of national legislation with the international norms; implementation of control over the protection of labour standards; providing assistance to the victims; legislative regulation of labour conditions; imposing sanctions on using the forced labour.

Georgian criminologists discuss the issues of social control of human trafficking in several directions. The first one is related to the strengthening of state functioning. The second direction is linked to the issues of state regulation. Besides, G. Glonti points out that the legislator was unable to provide clear formulation of the concept of trafficking and used legally ambiguous terms “purchase or sale of a person” in the first part of the Article 143. Such definition creates difficulties to the investigation bodies in regards to providing right qualification and to bringing charges against the criminal. The serious drawback of the article is the fact that trafficking is not considered as a transnational crime, which envisages moving or transit of the victim to another country or to the territory not controlled by the country of origin (i.e. for Georgia – in Abkhazia or South Ossetia), as a necessary condition while qualification of an objective side.

The third direction is related to the victimology aspects of the problem. As it is mentioned, at this stage it is impossible to ensure confidentiality of personal data of a victim during the investigation process, this is why the trafficker will always be able to influence the victim who is involved in the case as an accusing party or as a witness.

The Seventh Paragraph deals with the control of drug business. In this direction it is pointed out that the US has achieved greatest success on its way of fighting against drugs, where the number of drug users has halved during the last decade.

At the international level, retain efforts are provided by the United Nations. These efforts are mostly related to the conduct of global monitoring of status of drug-related cases, and development of general recommendations for governments in regards to the fight against drugs. Problem of drug abuse has been raised in almost all the key documents of the United Nations and its specialised organisations (especially the World Health Organisation).

Second important direction of the activity of the United Nations is to provide practical assistance to the whole range of drug-producing countries, for changing the orientation of farmers and

shifting them to the production of agricultural structures, and first of all, for the states of Central America.

The United Nations is keeping the registry of drug substances, which contains about 200 items as of today, from which 7 are natural and the rest are synthetic.

Among other problems, the issue of drug business is the subject of main interest in the researches of Georgian criminologists. They think that effective activity of customs service is very important in the fight against illegal transit of drugs and their import to the country.

In the Georgian criminology there is a dispute originating from the issue as if partial legalisation of drugs (marihuana) will support to identify drug users and prevent unlawful actions from the side of law enforcement bodies. According to the opinion expressed by J. Janashia, partial or full legalisation of drugs will give another push to the drug business, and its scales will be strengthened – competition will start in the internal market, and “Import” (smuggling) of drugs will increase significantly from outside state borders. However, there are opposite opinions.

Issues of legislative reforms are also paid much attention. In this direction it is pointed out that wrong criminal policy was shaped in Georgia in respect to the illegal turnover of drugs. Namely, number of criminal cases of this category tends to increase every year, which will be more than 10,000 soon. Most part of the detained people are retail users of drugs, who keep it for personal consumption and do not represent any treat to the public. Its main cause is the Article 260 of the Criminal Code of Georgia, which combines: “illegal preparation, production, purchase, keeping, shipment, transfer or sale of drugs, its analogy or precursor”.

J. Janashia points out that the Article 273 of the Criminal Code of Georgia needs to be refined, which deals with the illegal preparation, purchase, keeping of small quantities of drugs, its analogy or precursor for personal use, or their illegal usage without doctor’s prescription. As it is pointed out, illegal usage should be isolated from other types in this article as well.

Problem of victimology occupies an important place in the Georgian criminology. As it is pointed out, restriction of spread of AIDS and other infectious disease, legalisation of drugs and carrying out of effective complex activities by the state will support the restriction of spreading AIDS, hepatitis, tuberculosis and other infectious diseases among drug users.

It is also pointed out that the drugs generate unlawful actions related to violence and drug dealing.

In the contemporary Georgian criminology the issues related to the fight against drug business are developed, which have been elaborated by the UN eleventh congress (Bangkok, 2005).

In this respect there is an opinion that in Georgia, as country with a status of a drug user country, preventive model should be implemented in two directions: 1) through stopping the penetration

of drug business in Georgia and 2) introducing the flexible methods of consumer's market regulation.

In the light of the first direction the leading role should be assigned to the activities focused on elimination of development of smuggling. In this respect it is necessary to have a mechanism of legal regulation that will be created in agreement with neighbour countries through the way of unification. In this case the comparative-criminal analysis is significant. Transformation of operative-investigation methods are also related to this direction. In this connection, as it is known, the Ministry of Internal Affairs of Georgia raised an issue and requested that the body, which identifies the case, should perform investigation regarding the facts of drug smuggling (see the newspaper "Sakartvelos Respublika" 24.02.2999, issue 50).

The second direction includes the measures of social control and rehabilitation. With the purpose of strengthening the social control it is necessary to organize the issues of public activeness in the fight against the crime through legislative ways.

The Eight Paragraph discusses the control of smuggling. In this direction the existence of excise stamps is especially important. Special packaging and marking of product is also equally important.

Cutting of smuggling ways are done for production, export import, wholesale trade, retail sale, also by observing strictly the requirement to have a special license for goods storage. The licenses provide opportunity to determine and monitor the activities of various persons in different fields, and support the realisation of anti-smuggling laws. As a rule, the license contains certain conditions, and if this license or the legislation is violated, then the license can be suspended. This is why the threat of losing the license can divert the potential dealers from goods for smuggling. It is important go observe the requirement that every producer should mark a unique serial number on all the products. Requirement to keep the registry is undoubtedly very significant, and the necessity of keeping and monitoring the registry is felt in all the countries of the world, which makes the producers responsible for supplying the goods to the destination point at the market legally. The most effective requirement is for the exporters to draw up customs lease documents for the supply of the goods, which will be closed only if it is proved that the batch reached the destination. Instituting the medium rate and customs charges is also effective.

In modern conditions, the problem of identification and elimination of the transnational linkages of drug business is the most important for the fight with smuggling. Problem of arms smuggling is also important. The measures set in this respect are implemented in a complex way together with Interpol and neighbour countries (except Russia).

The Conclusion Study of problems associated with the fight against economic forms of transnational crime has enabled us to draw conclusions and to develop practical recommendations:

1. While identifying the trends of transnational economic crimes, it is necessary to consider that this is a form of a commercial activity, which is conducted through unlawful means. Correspondingly, it has the following signs: a) self-interest, 2) possibility to do it during the process of professional activity, 3) usage of legal forms by the subjects of economic relations, 4) wide scope of victims, 5) covert 'performance' of victimization process out of a victim, 6) having many subjects (legal entities and natural persons as performers), 7) damage done to the economic interests of the state and that of the citizens, 8) distribution of material values many times as the result of committing the economic crime, 9) regular nature, 10) high level of latency.

2. Addressing the problem of fighting against economic forms of transnational crime should be related to approach based on the classification developed by the United Nations, which determines eight forms of transnational crime: money laundering, theft of art and cultural objects, theft of intellectual property, illicit traffic in arms, fraud, trafficking in persons, illicit drug trafficking and smuggling.

3. As the result of generalization of materials of researches carried out in various countries, it was determined that the system of activities should develop in two directions for improving the control over economic forms of the transnational crime: 1) general measures; and 2) specific measures.

4. General control measures by law enforcement bodies should include:

- Legal and methodological basis for the activities of law enforcement bodies;
- Overcoming the problem of transnational crime, which is often related to the so called legal incompatibility of countries;
- With the purpose of fulfilling the investigation tasks and overcoming the problems related to questions, looking for the types of mechanism for building relationships with those countries, with which no agreements have been reached yet on the issues of legal assistance;
- Strengthening international cooperation in the field of operative-investigation activities, in accordance with the Naples Political Declaration and Global Action Plan against Organized Transnational Crime of the Economic and Social Council of the United Nations dated November 21-23, 1994,
- Upgrading specialization of those officers who are engaged in prevention and investigation of transnational crimes, special preparation of the people with this occupation, experience of working with law enforcement bodies abroad.

5. With the purpose of perfect management of social control of transnational economic crimes, the measures should include:

- Building a system of transnational criminal justice, which shall be based on the principle of coordination among states, also strengthening the activities of the Commission on Crime Prevention and Criminal Justice under the United Nations Economic and Social Council;
- Implementation of the decisions of the 9th and 12th congresses of the United Nations on Prevention of Crime and Treatment of Offenders regarding the issues of transferring and unveiling the crime, also the issues of uncovering the proceeds from criminal activities;
- Creation of a complex system for periodical collection and dissemination of information about domestic legislation;
- Ensuring tight cooperation with the bodies (first of all, with the bodies within the UN system), which can support a targeted fight against transnational crime, namely, with the Center for Human Rights, the United Nations International Drug Control Programme, International Criminal Police Organization, etc.;
- Information about the linkage between the terrorism and the transnational organized crime related to illicit traffic of firearms;
- Significant directions for prevention, such as: prevention targeted to the symbiosis of transnational economic and terrorism crimes; prevention of transnational economic and corruption crimes; prevention targeted to the symbiosis of transnational economic crime and migrants smuggling; prevention targeted to the symbiosis of transnational economic crime and legalization of crime proceeds;

6. It is necessary to improve the measures in the prevention policy, which are connected to the control of transnational money laundering. Following measures should be taken in this respect:

- Institute comprehensive internal regulations regime and supervision at banks and other finance institutions, among them, for natural persons and legal entities who provide official and unofficial services related to the transfer of funds, also, other bodies which are especially attractive for money laundering, if necessary;
- Create financial and operative information unit by the law enforcement and other bodies which are fighting against money laundering, which would function as a national center for collecting information about money laundering cases, also for analyzing and disseminating such information;

- Discuss the issue about instituting control for uncovering the cash movement at the national border, considering the requirement that the natural persons and commercial organizations should notify respective bodies about the movement of large amounts of cash at the border;
- Improve the control on the mechanism of making deals by the software;
- Identify the identity of owner and beneficiary and the sources of their funds, with the purpose of strengthening the measures for controlling wire transfers, considering the following conditions: banks and non-banking institutions more and more often are located outside the boundaries of large financial centers, within the jurisdiction that does not envisage relevant measures for fighting against money laundering or other financial crime;
- High speed of making international money transfers, which represents one of the elements of cyber-payment technology, complicates the tasks of law enforcement bodies, in regards to monitoring the criminal activities and for seizing illicit drugs. This is why the rules regulating the reporting (payment/settlement) issues shall be completely changed so that it now envisages the online reporting (payment/settlement) – via the internet, or with a micro-chip credit card in regards to transferring the money to other countries;
- It is necessary to develop the international control, to regulate the activities of offshore banks, as far as there exist absolute confidentiality guarantees for transactions in many zones where licenses are issued for such banks, and this gives them an opportunity to conduct manipulations related to the movement or concealing of illicit revenues, and the regulation of their activities still generates many questions;
- In case of the crimes related to the drug traffic, seizure of illicit revenues by the state only, does not create serious problems. However, as for other types of crimes, such as fraud and extortion, here the victims' interests will be grossly violated if only the state enjoys the seized property. This is why it is very important to take into account the interests of crime-affected victims during the process of seizing illicit revenues.
- Due attention should be paid to the adoption of regulatory provisions, which make it possible to prevent the possession and concealment of illicit revenues through administrative and preventive measures. In this connection the administrative measures for controlling the performance of financial institutions should be refined;
- The law envisages confiscation of property in all the corruption-related cases, however, it is known that practical application of this mechanism is insignificant and it is necessary to ensure further perfection of procedures for property identification and seizure. Besides,

the mutual international assistance on legal matters should be improved for investigating the corruption crime and during the process of the subsequent criminal prosecution;

- It is also necessary to continue harmonization of the Law of Georgia on State Internal Financial Control with international standards – INTOSAI and IIA.

7. As for the prevention policy, those measures, which are related to the control of theft of art and cultural objects, should be improved. In this respect, the following measures shall be taken:

- Enhanced system of protection for cultural property should be established in accordance with the Second Protocol adopted at the diplomatic conference in the Hague on March 26, 1999, in the following directions: 1) compilation of national inventories of cultural properties, 2) develop international guarantees for protecting the cultural property in the event of conflict from damage and ruin, theft, robbery, vandalism, any repression measures,
- There should be a system-based approach towards a citizen's request, when s/he has applied to the respective bodies of Georgia, so that they provide support in accordance with the Article 7 of the Law of Georgia on Export and Import of Cultural Property for returning the cultural property, which has been unlawfully exported abroad or was unlawfully owned in the territory of a foreign state, back to Georgia;
- Mechanism for regular public awareness-raising should be instituted about the cooperation between Georgia and Interpol concerning the issues such as: coordination of relationships of the Georgian police to their counterparts in other member-states of Interpol and its General Secretariat; organization and conduct of investigation activities; analysis and generalization of the practice of how the requirements of international law enforcement bodies are met in Georgia; create a databank of information about the people, organizations, events and documents related to the crimes of international nature; data collection according to the established form about the crime situation and structure in Georgia, about the criminals linked to terrorism, illicit drug traffic, counterfeiting money, infringing the historical and cultural property, and other crimes included in the international criminal statistics, and to hand this information to the General Secretariat.

8. It is necessary to refine the measures in the prevention policy, which are linked to the control of theft of intellectual property. Following measures should be taken in this respect:

- The system for fighting against the theft of intellectual property should be based on a systematic approach in order to control such factors of information leakage as: migration of those specialists who had access to classified information; publication on experimental-structural works; usage of technical facilities for collecting information; unfair competition by seeking assistance of criminals in commercial activities, etc.;

- It is necessary to refine the practice of fighting against counterfeiting the marking elements for goods (signs, etc.). In this respect the issue of improved expertise should play an important role. Correspondingly, following things should be in place: ensure support for state legislative and law enforcement bodies; maintain tight contacts between producers and police subunit which is responsible for fraud and counterfeiting; possess information about all major achievements of science and technology in the field of creating levels of protection from counterfeit and counterfeiting technology; maintain permanent contact with dealers; restrict the number of production locations; implement comprehensive control of goods production and sale; use advertisements for raising consumers' awareness about how to uncover the ways of counterfeiting;
- For ensuring that the fight of producers is effective against counterfeiting, it is necessary: always to have a person in the company who would be in charge of protecting the goods from counterfeiting; to inform its own sales agents about the protection means to be used against counterfeiting; to keep permanent contacts with public organizations that fight against product counterfeiting; to renew the measures regularly for protecting from counterfeit; to use special marking on the goods which protects the product from being counterfeited; to notify the staff regularly;
- It is necessary to inform the public about resolving the issues of legal regulation of intellectual property. Important role should be assigned to the issues of protecting the property-related, non-property and neighboring rights;
- It is necessary to refine the system of sanctions. In this direction it is necessary to take into account not only the special laws (international private law, international treaties, laws on copyright and neighboring rights, the law of Georgia on patents, on trademarks, on the name of product's origin and geographic marking, etc.), but also other protection means and sanctions that should be broadly reflected in other laws too, so that the authorized bodies have the right to carry out effective measures,

9. It is also necessary to refine those measures in the prevention policy, which are related to the control of illicit traffic of weapons. Following measures should be taken in this respect:

- There should be a legal regulation of this issue on the international level, because as of today there is no clear international legislation that would regulate the trade of arms. This is why the exporting countries can supply the deadly shells to the hot spots without significant problems and thus remain unpunished;
- International court should be established, which will hear the complaints and cases related to the illicit trade of arms;
- It is important to carry out the prevention measures that are directly targeted to the elimination of black market conditions, namely, the following are necessary: take

measures for not allowing the counterfeit production of arms; destroy the excess supply (first of all the weapons and combat materials) under the international control;

- A systematic approach should be developed for addressing the conflict protraction, increased rate of violence, displacement of civil population, increased scope of crime and other negative events. For regulating this process it is necessary to build capacity for creating the state licensing system and for revealing lawful production, sale and marking of arms; correspondingly: to confiscate, seize and destroy unlawfully produced or imported firearms; to identify illicit firearms and light arms, also with the purpose of performing surveillance for them; to keep on taking additional international measures; to institute control on the brokerage activities in the field of traffic of weapons and light arms;
- International monitoring should be instituted in the regions of Georgia which have been occupied by Russia, in order to stop unlawful purchasing, storing, carrying, making, transporting or selling of firearms, combat materials, explosive materials or explosive devices.

10. The measures, which are linked to the control of transnational fraud, should be improved in the prevention policy. In this respect the following measures should be taken:

- It is necessary to elaborate a concept for fighting against transnational fraud in various sectors of economy that will meet the goals of achieving state regulation of market economy;
- Much significance should be assigned to the development of a set of highly effective measures for fighting against fraud, which will be envisaged in the targeted program at all the stages of management;
- It is important to refine the international legislation (among them the criminal, administrative and civil law) and normative basis on fighting against the fraud, as far as the legislative regulation of fighting against fraud in various countries still remains a problem;
- When investigating the transnational fraud, special significance should be assigned to the development of organizational-structural basis for fighting against fraud considering the experience accumulated in various countries of the world;
- It is necessary to develop a penitentiary control of people who have committed fraud;
- It is of current significance to refine the human resources training system for law enforcement bodies, which have a competency in the field of fighting against fraud, which takes into account the specifics of the fraud committed in various sectors of economy;

- Georgia should also develop a concept of fighting against transnational fraud. This approach is very important in the modern world, because the transnational fraud in fact includes all the fields of economy, which ranges from manufacturing to raw materials and the production of goods.

11. It is also important to refine the measures in the prevention policy, which are related to the control of human trafficking. Following measures should be developed in this respect:

- It is necessary to develop a system for preventing the trafficking of people, especially that of women and children. With this purpose, following measures should be taken comprehensively:
 - ❖ Cooperation with civil society;
 - ❖ Development and other measures, for example, making bilateral labor agreement;
 - ❖ Educational, social and cultural measures that hinder the emergence of the demand and inhibit the growth of human trafficking;
 - ❖ Prevention and uncovering the facts of human trafficking at the borders, with the purpose of preventing the commercial shipping-companies from being engaged in the crimes related to human trafficking;
 - ❖ Application of sanctions, i.e. to deny entry or to annul a visa to those who are involved in the criminal trafficking of people;
 - ❖ To ensure security of people and document control, to ensure the legality and authenticity of documents;
 - ❖ To develop prevention measures, especially the non-judicial initiatives;
 - ❖ To apply measures in regards to commercial shippers (which are related to the crime);
 - ❖ To take legislative measures, in order not to let the human traffickers use commercial shippers, as much as possible.
- Opinion of a Georgian criminology specialist G. Ghlonti should be taken into consideration in regards to refining the criminal aspects of human trafficking. Namely, there is a term “purchase or sale of human being” in the first part of the Article 143¹ of the Criminal Code, which is vague from the legal viewpoint and that needs to be specified, as far as this definition creates difficulties to the investigative bodies for giving the right qualification to the crime and for bringing charges against criminals;
- The Article 143¹ of the Criminal Code should be refined, which does not envisage the requirement of the UN Convention Against Transnational Organized Crime, which

recommends considering trafficking to be a transnational crime that jeopardizes normal international relations and respect to human rights. If the issue is resolved this way, while subsuming the action the necessary condition will be the transfer or transit of the victim to another country, or to the territory which is not controlled by the country of origin (for example, for Georgia it can be Abkhazia or South Ossetia);

- In the same respect, trafficking of minors should be specified, as far as the Article 143² of the Criminal Code has the same drawback as the Article 143¹;
- It is necessary to refine the information-organization basis of fighting against trafficking, considering the recommendations of Georgian criminologists, because:
 - ❖ The anti-trafficking legislation is irrelevant to the effective legislation of Georgia, and in general, the international provisions for protecting the victims of human trafficking is not sufficiently implemented in the effective legislation;
 - ❖ The investigation procedures and legal proceedings do not ensure confidentiality of personal data;
 - ❖ Referral mechanisms for the victims of human trafficking insufficiently guarantees confidentiality of personal data;
 - ❖ Victims of human trafficking do not have enough motivation to refer to the law enforcement bodies;
 - ❖ There is a low level of awareness in the field of national and international legislation on the protection of victims of human trafficking;
 - ❖ Staff of the law enforcement structures, consular institutions and ministry of foreign affair, judges and lawyers do not possess relevant level of professionalism,
- With the purpose of ensuring the confidentiality of witnesses to the victims of trafficking, protection programs should be adopted during the investigation, on entering or leaving the courtroom, etc.;
- It is necessary to provide material assistance to the identified victims of trafficking right after the identification, despite whether they are going to testify against the traffickers or not, as the main goal is to mitigate adaptation process to them when returning to the home country;
- Referral mechanisms should be optimized for the victims of trafficking in accordance with the requirements of the international legislation, with the purpose of protecting their personal data;

- Rational mechanisms of cooperation should be developed between the non-governmental and state structures;
- It is necessary to fully address the problem of public policy, namely, it is necessary to strengthen the system of international cooperation and the monitoring mechanism;
- We consider that it is reasonable to support practical realization of the ideas of M. Badzagua, a Georgian criminologist, according to which the public organizations, the state, and the international organizations should promote more effectively the essence of trafficking, its methods and the fight against it;
- Actually, it is quite important to take those measures, which are related to the issues of identifying the sources of labor migration and human trafficking, namely:
 - ❖ It is necessary to address the problem of annulling the labor inspection, as far as the labor inspectors play a big role in primary identification of the victims of labor trafficking and in their referral;
 - ❖ It is also necessary to refine the national referral mechanism, so that it covers the problem of labor trafficking as well. In addition, as far as the labor market institutes – trade unions and employers – have become the parties involved in the national referral mechanism,
 - Emphasis should be laid on the issue of HIV-AIDS in regards to the victims of trafficking,
 - With the purpose of eliminating the linkage between corruption and trafficking, it is necessary to introduce a system-based approach to the policy of fight against corruption possibilities within the trafficking networks; to this effect, it is necessary to coherently implement the requirements of the United Nations Convention against Corruption (UNCAC) again together with the requirements of the Protocol on fight against the transnational organized crime.
 - It is necessary to strengthen the fight against criminal forms of adoption, and to reveal all the connections with the facts of trafficking on time.

12. There should be such measures refined in the prevention policies, which are related to the control of drug dealing. Following measures should be implemented in this respect:

- Organize researches focused one hand on the study of their industry and the mechanisms of how their sales market is functioning, and on the other hand – on the creation of a system enabling the expert evaluation of effectiveness of a special police program;
- Destroy the mind-centers of drug-business;

- Elaborate a unified concept and strategy for fighting against the drug crime on the national and international levels;
- Allocate significant financial means and material resources, elaborate complex plans for attacking the drug-organizations, elaborate an effective system of measures in order to identify and confiscate illicit revenues, to liquidate the money ‘laundering’ channels, and also for the purpose of international cooperation as well;
- Create a system for controlling the movement of precursors;
- The Article 273 of the Criminal Code needs to be refined: illegal preparation purchase, keeping of small quantities of narcotics, its analogy or precursor for personal use or their illegal use without doctor’s prescription. In this respect, we should take into account the opinion of J. Janashia, a Georgian criminologist about separating the illegal use from other types of crime;
- Effective measures should be introduced for addressing the problem of victimization. In this respect there should be introduced systemic prevention approach to AIDS, hepatitis, tuberculosis and other infectious diseases among drug-users;
- With the purpose of stopping the penetration of drug-dealing into Georgia and for regulating the consumers market, it is necessary to:
 - ❖ Assign a leading role to the measures for preventing the development of smuggling. In this respect a mechanism of legal regulation is needed, which will be agreed with neighbor countries through unification. In this case it is of current significance to perform a comparative-criminology analysis. This direction is also deals with the transformation of operative-investigation methods. In this connection, as it is known, the Ministry of Internal Affairs has raised an issue that the drug smuggling case should be investigated by the agency that has identified such fact;
 - ❖ The system of social control and rehabilitation should be enhanced. With the purpose of increasing the social control, it is necessary to regulate the issues of active involvement of public in the fight against criminal through legislative ways.

13. It is necessary to refine the measures in the prevention policy, which are related to the control of smuggling. Following measures should be taken in this respect:

- To coordinate the measures for reducing the goods smuggling at the international level, and to simplify the trade routes;
- To develop a system for controlling the international transport of goods so that to avoid exporting the contraband goods;
- To elaborate effective sanctions so that smuggling becomes financially unattractive;

- It is especially important to refine the system of excise marking;
- It is necessary to ensure full realization of international standards for the system of special packaging and marking of goods;
- With the purpose of addressing the prevention tasks, the contraband ways should be cut off for production, export, import, wholesale and retail trade, also with strict adherence to the requirement of having a special license for goods storage;
- Special role should be assigned to the accounting at enterprises. In this respect it is necessary to exercise control so that the goods is legally supplied to the market, to its destination;
- It is necessary to introduce a wide-scale computerized control system in order to enable the state perform and analyze any possible risk before dispatching each batch of product to its destination;
- It is necessary that the exporters draw up customs lease agreements for the delivery of goods, which will be closed only in case if it is confirmed that the batch has reached its destination;
- It is also effective to institute a moderate tariffs and customs fees;
- When fighting against smuggling, it is necessary to address the problem of identification and elimination of transnational linkages of drug-businesses;
- It is also important to address the problem of fighting against the arms smuggling in a complex way, together with Interpol and neighbor countries.

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Publications

1. **“Sources of Terrorism Funding”** – Legal Magazine of the Supreme Court of Georgia and the Association of Judges of Georgia “Justice and Law” 3(18)’09, page 77-86. The paper specifies that terrorism creates serious threat to Georgia and to the international community in general. In the beginning of the 21st century Georgia was found involved in the crossroad of world’s global interests and volatile conflicts. Together with other states, we can safely discuss

Georgia as a victim of terrorism by the Soviet Union. Territories that are not controlled by Georgia nowadays, namely, Abkhazia and Samachablo, which have been recognized by the Russian Federation as independent republics absolutely unlawfully, represents the best possibility and in fact it is an oasis for terrorism development and for its unlimited funding. During the period of globalization of economy, criminal revenues for terrorism can be transferred to the whole world. If one country restricts the rules, but the same rules remain unchanged in the other country, the people engaged in money laundering and mostly the terrorists would be able to transfer money in the countries with relatively liberal regulations. This is why the states need to have unity, consolidation and mutual cooperation, it is necessary to have an agreed international coalition that will be responsible for fighting against money laundering and namely against funding terrorism as one of the types of money laundering. For fighting with the biggest threat of the 21st century, any country of the world and among them the developing countries of small resources should make their specific contribution in the fight against funding the terrorism.

2. **“Suicidal Terrorism”** - Legal Magazine of the Supreme Court of Georgia and the Association of Judges of Georgia “Justice and Law” 2(25)’10, page 123-128. It is mentioned in the paper that the phenomenon of this crime is very significant and problematic at the same time. Its area is expanding day after day, and correspondingly, new types of terrorism are established, out of which I have laid emphasis on suicidal terrorism. Superficially, suicidal terrorism represents a problem that is easy to understand at first glance, but as a crime it consists of many factors, which needs thorough observation and investigation, which is not that simple, particularly, if we consider that after the suicide of the person who has committed the crime, in fact the investigation is left without any chances. In the paper I have been focused on the types of carrying out suicidal terrorism, namely, that it is not exploding oneself on the mine; the paper also underlines the motivation of terrorists, what makes them commit the crime and what the psychological factors are, which necessarily follows the suicide committed by the terrorism. I have also mentioned in the paper the possibility of using the suicidal terrorism as an organisational and individual weapon. This paper is an attempt to make the public more aware of the essence of suicidal terrorism, its significance and also its threat, as far as despite such act has not taken place in Georgia, it would be great to take prevention measures at an early stage (which are also mentioned in the paper), in order to eliminate the negative result that always follows the suicidal terrorism.

3. **“Money Laundering through offshore zones”** - Legal Magazine of the Supreme Court of Georgia and the Association of Judges of Georgia “Justice and Law” 1(28)’11, page 123-131. The paper lays emphasis on the problem of current significance, namely, the offshore finance centres, which are very popular in all the countries of the world, which supports laundering of money acquired through criminal ways, and making investments of large amounts, which from its side represents an international economic crime. It is also noteworthy that such centres are used not only in large industrial states, but also in the countries of developing market economy,

where the flow of capital, short-term loan or currency exchange rate is volatile. Offshore centres make the state capital less transparent, which results in the exploitation of the property system and controversy with various jurisdictions. The offshore zones, which are sometimes called offshore banks, means the existence of assets in the name of one legal jurisdiction, but at the same time implies financial turnover of these assets in other jurisdiction.

4. **“General Overview of Stealth of Items of National Significance”** - Legal Magazine of the Supreme Court of Georgia and the Association of Judges of Georgia “Justice and Law” 1(03)’12, page. The paper mentions that the increased market of works of art and archaeology items especially attract the criminal elements. It is determined that with the purpose of selling on the market, every year the works of art with the value of 4.5 billion dollars are kidnapped. Market of these items, like this is the case in drug business or arms trade, represents one of the sources of money laundering. Stealth of works of art or archaeology items is acquiring wide-scale nature in many countries of the world, which also provides conditions for establishing new ways of stealing them. Despite the crimes of such categories are not reported in Georgia often, still, like other countries, Georgia is facing a big threat that is conditioned by existence of many famous and very old/unique works of art in our country.