

Criminological Characteristics of Organized Environmental Crime in the Russian Federation

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Abstract. Throughout the world, modern environmental crime is characterized by the emergence of new forms of criminal behavior, improving ways of committing crimes and steadily increasing participation of organized criminal groups and communities in their commission. Nowadays, organized environmental crime along with environmental terrorism constitute a significant security threat. The distinctive features of organized environmental crime include: longevity and stability of a criminal organization, which in most cases effectively manages a complex of criminal activities from the organizational and economic point of view, and also has the ability to minimize the risks arising in this connection, long-term planning of activities, involving individuals and commercial structures, building criminal networks. Another characteristic feature is its focus on the market (including the illegal one). The organized groups often engage in criminal activities in various areas, committing environmental and economic and other types of crimes, while the corruption component is an integral feature of them. Organized transnational environmental crime carries out its activities in such key areas as illegal trade in rare and endangered species of wild fauna and flora and their derivatives, illegal logging and trade in illegal timber, illegal turnover of waste including illegal transportation, storage, discharge and burial, transboundary movement of hazardous waste, illegal fishing. Law enforcement and law enforcement agencies of various states pooling their efforts to curb ecologically criminal behavior, neutralizing all stages of the crime: planning, illegal extraction of resources, transportation, marketing, laundering of proceeds from crime play an important role in combating organized environmental crime. Eliminating the economic basis of the activities of criminal groups, reducing their profitability, is the key to success in combating it. Improvement of international legislation for development will create an integrated system of measures to counteract organized environmental crime at the level of individual states and ensure unification of national legislative systems in terms of terminology, compositions, and sanctions applied for the commission of environmental crimes by organized groups.

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Introduction

Deterioration of the environment, intensification of various manifestations of the global environmental crisis, exploitation of natural resources, increase in a number of criminal infringements regarding the environment and its elements, together with an increase in damage caused by them, require immediate measures, including legal ones, to minimize the negative impact of these factors¹. The global nature of the problem of ensuring world environmental order makes scientists of all countries look for effective solutions in the fight against newly emerging and

¹ Dubovik O.L., Zhalinsky A.E, Environmental crime in Russia: state, trends and means of struggle, [in:] Environmental crime in Europe. Comp. Kommt F, Kremer L, Dubovik O.L (Eds). Moscow: Gorodets, 2010, p. 244.

dynamically developing threats to the environment. An important role in this process is played by the fight against environmental crime, based on the contradiction of the environmental and economic interests of society. Awareness of the need for rational use of the natural resources is often overshadowed by economic interests associated with the desire for immediate enrichment by any means. According to B.B. Tangiev these circumstances are related to one of the subjective causes of environmental crime².

Main Part

The desire to make profit from illegal activities related to exploitation of the natural resources and the environment is one of the main motives for criminal activities of organized groups. World trade in flora and fauna is estimated at between 10 and 20 billion Euros and covers tens of millions of animals and plants per year, legal trade of sturgeon caviar alone brings 100 million Euros of profit per year³.

It should be noted that provision of an equal degree of environmental protection by means of criminal law and criminal law should be implemented considering the changing criminal situation in this sphere, as well as regional specifics that directly affect the structure and dynamics of environmental crimes. Environmental criminality at the present stage of the development of society, both in the Russian Federation and abroad, is characterized by the emergence of new forms of criminal behavior, evolution of ways of committing a crime, steady increase in the participation of organized criminal groups and communities in their commission. Increase in the number of criminal infringements in relation to the environment and its components aggravates the situation of environmental crisis⁴. Organized environmental crime, along with environmental terrorism, present a significant threat to the security of the modern state.

In practice, despite the existence of a comprehensive system of legal acts that normalize lawful behavior of citizens from an environmental point of view, as well as priorities of environmental protection declared by government authorities and management in order to ensure national security of the country in our country, both at the federal and regional level, implementation of their provisions leads neither to an improvement in the quality of the environment nor to an effective increase in the level of its legal protection. This is also true for the state of criminal legal protection of the environment.

Despite the well-known — due to the information published by mass media — fact that the environmental crime rates are increasing, the number of crimes of this category remains approximately at the same level, and accounts for just over 1%

² Tangiev B.B., Transnational environmental crime: causal and deterministic complex of globalization. *Bulletin of the St. Petersburg University of the Ministry of Internal Affairs of Russia*, 2007, No. 4 (35), p. 136.

³ Wiinstekers V, Protection of endangered species of fauna and flora, [in:] *Environmental crime...*, *op. cit.*, p. 32.

⁴ Kravtsova M.A, Environmental crime as a threat to environmental safety. *Vestnik Kalininskogo filiala Sankt-Peterburgskogo Universiteta MVD Rossii*, 2017, Vol. 1(47), p. 74.

of the total number of recorded crimes⁵. According to the statistical data, their overwhelming number is accounted for by criminal encroachments on forest resources (Art. 260, 261 of the Criminal Code of the Russian Federation) and objects of the animal world (Art. 256, Article 257, Article 258, Article 258.1). Together, the number of crimes for these compounds in 2013 was 99.28% of the number of registered environmental crimes; in 2014 — 97.1%, in 2015 — 99.34%⁶. It should be noted that environmental crimes fall into the category of criminal encroachments, public danger of which cannot be fully confirmed by the official statistics in view of their high latency⁷.

Difficulties in the enforcement of criminal law in the area of environmental protection arise when identifying and recording crimes, establishing general and special unlawfulness, qualifying acts, determining the form of guilt, establishing consequences, proving the causal link between the act and its consequences, and establishing the extent of the harm done.

In the Russian Federation, as in other countries, environmental crimes are characterized by a high degree of latency, which, in the opinion of experts, is due to a number of factors other than other causes related to the activities of law enforcement agencies fighting it: the existence of a significant disparity between the scale of environmental crimes, the number of persons involved in them, including taking into account the scale of organized and transnational crime in this sphere, and the number of personnel bodies that oppose it, inadequate material and technical equipment of relevant services and units, weak registration and accounting discipline and other shortcomings in the activities of law enforcement bodies, lack of state protection for victims, witnesses and other participants in criminal proceedings⁸. The latter is of particular importance for regions with a high level of organized environmental crime. The reform of the law enforcement and environmental authorities in the Russian Federation that led to reduction in the number of law enforcement and environmental officials carrying out preventive measures on the ground, identification and suppression of environmental crimes in the last decade in the Russian Federation has had a negative impact both on the level of latent environmental crime and on the criminogenic situation in this sphere.

Environmental crime in the Russian Federation has a pronounced regional character. Such characteristics as the state of the environment in a region, availability of natural resources in it, effectiveness of environmental and law enforcement bodies directly affect the nature and the quantity of environmental crimes committed

⁵ According to official statistics, the number of registered environmental crimes of the Ministry of the Interior Affairs of Russian Federation. *Electronic source*: <https://мвд.рф/reports/1/>, accessed: 29.04.2018.

⁶ For the detailed information see: p. 437 of the State report "On the state and protection of the environment in the Russian Federation in 2013", p. 449 of the State report "On the state and protection of the environment in the Russian Federation in 2014", p. 449 of the State report "On the state and on the protection of the environment in the Russian Federation in 2015". Unfortunately, the State report "On the state and protection of the environment in 2016" does not contain statistical data on the structure of environmental crimes.

⁷ Antonov I.A, Traiko V.I, Tretyakov I.L, Environmental crime in Russia and general social measures for its prevention. *Yuridicheskaya nauka i sovremennost'*, 2012, Vol. 7, p. 54.

⁸ Bakhmudov Z.B, Problems of latent environmental crime (based on the materials of the Republic of Dagestan). PhD Dissertation. Makhachkala, 2006, p. 9.

in it⁹. For example, in the Siberian Federal District, rich in forest resources, there is an increase in the number of crimes related to illegal timber extraction, and in traditional fishing regions (Kamchatka, Far East, Dagestan, Volgograd and Astrakhan regions) poaching is carried out on an industrial scale, mainly by organized criminal gangs with established sales channels and corruption links at the level of environmental and law enforcement bodies¹⁰.

Speaking about the eco-criminal situation, it is necessary to emphasize its clear dependence on the uneven economic development of our country's regions along with other factors, such as: geographical location, including common borders with neighboring countries, climatic conditions, level of industrial development, living standards and employment of the population, its cultural characteristics and customs. Thus, the largest number of organized crimes associated with encroachment on forest resources is registered in the North-Western and Far Eastern Federal Districts, on the one hand rich in wood resources with high economic value, and on the other having a common border with neighboring states that are the main consumers illegally extracted wood.

Organized crime, which makes significant contribution to the commission of environmental crimes, poses much greater social danger than ordinary crimes because of its distinctive features. These include, in particular, longevity and stability of a criminal organization, which in most cases effectively manages a complex of criminal activities from an organizational and economic point of view, and also has the ability to minimize the risks that arise in this regard. Organized crime cannot be assessed solely on the basis of the number of crimes and the persons involved. Therefore, an isolated case of a criminal organization activity can demonstrate a model of criminal behavior characteristics for a whole region (or even state)¹¹.

Specialists indicate a number of inherent features of organized crime, such as focus on profit-making activities, functioning as operating "enterprises" focused on the market (including the illegal ones); planning activities, involving individuals and commercial structures, creating criminal networks. Activities of organized criminal groups are also inherent in diversification. Often, one organized group simultaneously commits crimes of different categories. Thus, smuggling of objects of wild nature protected by the international law can be carried out through channels established for drug trafficking. In the course of criminal activities conducted by organized groups, attempts are constantly made to reduce risks of prosecution by both using force and using financial means to bribe officials. In this case, the relationship between the activity of organized criminal groups and the general level of corruption is clearly traced, which is also true for environmental crimes. Since even a small corruption manifestation in the sphere of ecological relations can lead to significant negative consequences for the environment, and the damage cannot be compensated in certain cases, when developing and implementing

⁹ Rodionov A.V, Environmental crime in modern Russia: Causes, Trends, Problems of Counteraction. Natural Resources of Siberia and the Far East — A Look into the Future. Materials of the International Environmental Forum (November 19–21, 21013) in 2 volumes. Glanina T.V, Baumgarten M.I (Eds). Kemerovo, 2013, p. 185.

¹⁰ Kuznetsova N.I, Criminological characteristics of environmental crime. *Bulletin of the St. Petersburg University of the Ministry of Internal Affairs of Russia*. 2017. No. 2 (74), p. 99.

¹¹ Albrecht H.-J, *op. cit.*, p. 97.

anti-corruption mechanisms it is necessary to fully consider the industry specificity¹². It is also known that environmental crimes committed by organized criminal groups go hand in hand with other categories of crimes, including economic crimes, for example, with laundering of proceeds from crime.

Among the environmental crimes most often committed by organized criminal groups, both in the territory of the Russian Federation and in other countries of the world, several categories can be singled out. The first encompasses illegal trade in rare and endangered species of wild fauna and flora and their derivatives. Illicit trade in fauna is carried out by international organized criminal groups that, during its implementation, also commit other crimes, such as fraud, use of fraudulent documents, bribery of officials. Another characteristic feature of this type of crime is the global nature of criminal activity using international criminal networks. Experts on wild fauna and flora argue that illegal trade in wild animals and plants most actively engages Italian, Chinese, Russian and Japanese organized criminal groups¹³. Globalization of the international trade market along with development of the Internet led to a significant expansion of markets, including illegally extracted wild animals and plants, as well as their derivatives. In the Russian Federation, there is currently a practice of making court rulings upon recognition of information regarding sale of particularly valuable fauna, parts and derivatives of it, information prohibited for distribution in the Russian Federation, on the basis of which access to such information on the Internet is limited, which serves sufficiently effective measure to counteract illegal trafficking in these objects of criminal attacks¹⁴. From the point of view of the activity of organized criminal groups involved in illegal production and sale of wild animals, plants and their derivatives, the Far East is one of the most troubled regions of Russia. The final destination of such products are China and Korea, where, with participation of organized criminal groups, illegal exports are most often animal derivatives (for example, bear paws and bile, musk of musk deer, etc.). Another unfavorable region of the Russian Federation, from the point of view of active activities of organized criminal groups that infringe the law on animal resources, are the regions of our country adjacent to the Caspian Sea: the Astrakhan Region, Dagestan, and Kalmykia. According to static data, up to 70% of the world's stock of sturgeon live in this area¹⁵. Illegal fishing of sturgeon, carried out in these regions mainly for the purpose of caviar extraction, has long been an illustrative example of the activities of organized criminal groups in Russia, including the clearly transnational nature.

According to CITES, the size of the market of smuggled caviar and sturgeon in the world is about five times bigger than the legal market and amounts to about 500

¹² Alekseev S.L, Sergeeva Yu.S, Shaidullin R.N, Criminological characteristics and prevention of corruption as one of the problems of environmental security. *Vestnik NTS BZhD*, 2017, Vol. 1, p. 125.

¹³ Kukushkina A.V, Struggle against crime and protection of wild fauna and flora from illicit trafficking. *Bulletin of MGIMO University*, 2011, Vol. 4, p. 236.

¹⁴ See in detail: Rednikova T.V, The practice of applying the provisions of Article 258.1 of the Criminal Code of the Russian Federation. *The Union of Criminalists and Criminologists*, 2017, No. 1–4, p. 105.

¹⁵ Saigitov U.T, Isaeva A.I, Illegal fish and caviar business in Dagestan. *Criminological research. Makhachkala*. 2002, p. 3.

million US dollars per year, while about 60% of black caviar smuggling is provided by criminal groups from Russia¹⁶.

The next most attractive category for activities of organized criminal groups in the area of environmental crimes is illegal logging of forest plantations. Destruction of forests in the development of modern society occurs on all continents. Globally, illicit trade accounts for about 10% of global forest trade, which in turn is more than \$ 150 billion USD per year. Real estimation of volumes of extraction and cost expression of illegal turnover of illegally extracted wood is complicated by latency of the given kind of crime. However, it should be noted that a much greater number of illegal operations is identified in the cases in which States are making some additional efforts in this direction¹⁷.

A major contribution to reducing the level of criminal encroachments on forest resources through suppression of illegal timber trafficking is made by special international and national legislative measures, which require provision of proof of the legal origin of timber at all stages of its turnover (Lacey Act in the USA — there is a ban on import regarding a wide range of objects of flora and products from them, including goods made from illegally felled wood; the European Parliament's and the Council of Europe's Regulation No. 995/210¹⁸ prohibits sale of timber on the domestic market without the presentation of documents confirming legality of its processing and harvesting. Federal Law No. 415-FZ of December 28, 2013¹⁹, introduced chapters 2.2 and 2.3 into the Russian Federation Forest Code; the chapters regulate the procedure of timber transportation and record transactions in the official Unified State Automated Information System.

In the Russian Federation, along with the collapse of the logging system that existed during the Soviet era, forest users operating under the law are increasingly being pushed out by the so-called "black loggers" who work as part of organized criminal groups. Their activities are highly profitable, often carried out using corrupt relations in the power structures. This type of crime can be committed by way of completely illegal logging, or by excess timber extraction on legally allocated plots and in the border areas that surround them. The activities of organized groups regarding illegal harvesting of forest resources are currently characterized by clear distribution of roles between the groups' members, which significantly complicates the process of both identifying crimes and suppressing the sales channels. At first, cutting of trees is performed by mobile groups "armed" solely with saws and axes and moving on motorcycles. Detention of these individuals poses a problem because of their mobility and insufficient number of employees of authorized bodies engaged in forest protection. At the next stage of the crime, another group of people with the help of heavier equipment stacks the fallen timber, another group removes it using timber trucks. Afterwards, the material is stored and moved through the sales channels. Under Art. 260 of the Criminal Code of the Russian Federation prosecution of all members of a criminal group requires serious efforts

¹⁶ Bakhmudov Z.B, *op.cit.*, p. 73.

¹⁷ Brak D, Illegal logging and illegal trade of forest and forest wood, [in:] Environmental crime..., *op. cit.*, p. 32.

¹⁸ OJ 2010. 295/23. *Electronic source:* <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:295:0023:0034:EN:PDF>, accessed: 29.04.2018.

¹⁹ SZ RF. 2013. No. 52 (Part I). Art. 6980.

and specialization of enforcement bodies in the investigation of organized forms of criminal activity, otherwise most often only the participants of the first stage are brought to responsibility — those, who did not manage to escape in time, but not the other organized group members, which operated on different stages of crime commitment²⁰. It should be noted that in order to increase the effectiveness of enforcement of the criminal liability norm, which provides for punishment for illegal logging, it needs considerable modernization in relation to the activities of criminal groups.

Other criminal encroachments on the environment and its components carried out by organized criminal groups include illegal turnover of wastes, including illegal transportation, storage, discharge and disposal, transboundary movement of hazardous waste. The reason for the growing interest of organized criminal communities in this area the growing costs of waste disposal in environmentally sound ways, which leads to the formation of a market for services, including illegal ones, for disposal of such waste.

Illegal fishing is yet another environmental crime committed by organized criminal groups. According to the most conservative estimates, commercial use of marine biological resources is 10–20 times higher than the established catch rates, while the illegal export of fish products is at least \$ 2.5 billion per year²¹. The predatory attitude to the reserves of the World Ocean, expressed in the excessive intensity of fishing and non-observance of the interests of reproduction of fish and other marine biological resources in the majority of cases, as well as pollution of the marine environment, are serious threats to the environmental safety of all countries²². Illegal capture of aquatic biological resources is not only an independent environmental crime, but it is also the first link in the chain of crimes committed by organized criminal groups, such as illegal processing and smuggling, preliminary conspiracy to acquire and sell resources obtained by criminal means, money laundering, concealment of income from taxation²³.

Conclusions

Turning to measures of prevention of environmental crimes committed by organized criminal groups, we first of all note that organized environmental crime is of transnational nature and represents a complex system of global criminal relations and relations characterized, in particular, by corruption links and often by involvement of state structures in its activities²⁴. To combat them both at the

²⁰ Lavygina I.V, Organized forms of illegal logging of forest plantations. *Criminology Journal of Baikal National University of Economics and Law*, 2013, Vol. 3, pp. 139.

²¹ Pilyugina T.V, Panasenko V.P, Environmental safety of the region: analysis of environmental crime, its dynamics, structure and prevention. *Vestnik KSEI*, 2017, No. 3 (75), p. 72.

²² Kudel'kin N.S, Legal liability for the pollution of the marine environment. PhD thesis dissertation. Moscow, 2009, p. 3.

²³ Samoilova Yu.B, Criminal legal protection of aquatic biological resources. *Lex Russica*, 2016, Vol. 4 (113), p. 106.

²⁴ See: Shishkina E.A. International environmental crime as a subject of criminological analysis. *Eurasian Law Journal*, 2015, Vol. 4 (83), p. 252.

level of individual states and in the transnational context, it is necessary to create an integrated system of legal regulations that allow for actively counteracting the crimes and ensuring inevitability of punishment at all stages of the commission of a crime for all participants in an organized criminal group, regardless of the distribution of roles among them. The main role in this process is undermining the economic component of illegal “business”, exploiting natural resources and the environment as a whole as well as elimination of connections between various links of the criminal chain. As a result, the commission of environmental crimes by organized criminal groups, on the one hand, should become economically unprofitable, and on the other — technically unrealizable under the threat of inevitability of punishment. Much attention in this regard should be paid to combating transnational environmental crime. On the one hand, the terminology characterizing the subject of criminal encroachments needs to be unified²⁵. On the other hand, unification of liability measures for environmental crimes, committed by organized criminal groups, should ensure that there is no migration of criminal “business” to countries with the most “preferential” conditions for its implementation. Effectiveness of the fight against transnational crimes depends directly on the efforts to neutralize them at all of their stages: planning, illegal extraction of resources, transportation, marketing, laundering of proceeds from the crimes. Eliminating the economic basis for the activities of criminal groups, reducing profitability of the crimes, is the key to success in combating it. Improvement of international legislation in this area will create a comprehensive system of measures to counteract organized environmental crime at the level of individual states and unify national legislative systems (terminology, trains, and sanctions applied for the commission of environmental crimes by organized groups).

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²⁵ Dmitrenko A.P, Kablov A.M, Criminal-legal protection of endangered species of wild fauna: legislative problems and possible directions for improvement. *Bulletin of Economic Security*, 2017, Vol. 2, pp. 214–215.

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Streszczenie. Na całym świecie współczesna przestępczość ekologiczna charakteryzuje się pojawianiem się nowych form zachowań przestępczych, doskonaleniem sposobów popełniania przestępstw oraz stałym zwiększaniem udziału zorganizowanych grup i społeczności przestępczych w ich popełnianiu. W dzisiejszych czasach zorganizowana przestępczość ekologiczna wraz z terroryzmem ekologicznym stanowią istotne zagrożenie dla bezpieczeństwa. Cechy wyróżniające zorganizowaną przestępczość ekologiczną to: długowieczność i stabilność organizacji przestępczej, która w większości przypadków skutecznie zarządza kompleksem działalności przestępczej z organizacyjnego i ekonomicznego punktu widzenia, a także posiada zdolność do minimalizacji ryzyka z tym związanego, długoterminowe planowanie działań, angażowanie jednostek i struktur handlowych, budowanie sieci przestępczych. Kolejną cechą charakterystyczną jest koncentracja na rynku (w tym nielegalnym). Grupy zorganizowane często angażują się w działalność przestępczą w różnych dziedzinach, popełniając przestępstwa ekologiczne, gospodarce i inne, a ich integralną cechą jest element korupcyjny. Zorganizowana międzynarodowa przestępczość ekologiczna prowadzi swoją działalność w takich kluczowych obszarach, jak nielegalny handel rzadkimi i zagrożonymi gatunkami dzikiej fauny i flory oraz ich pochodnymi, nielegalny wyręb i handel nielegalnym drewnem, nielegalny obrót odpadami, w tym nielegalny transport, składowanie i grzebanie, transgraniczny przepływ odpadów niebezpiecznych, nielegalne połowy. Organy ścigania różnych państw łączące swoje wysiłki w celu ograniczenia zachowań przestępczych z punktu widzenia ekologii, neutralizujące wszystkie etapy przestępczości: planowanie, nielegalne wydobywanie zasobów, transport, marketing, pranie dochodów z przestępstwa odgrywają ważną rolę w zwalczaniu zorganizowanej przestępczości ekologicznej. Wyeliminowanie ekonomicznych podstaw działalności grup przestępczych, zmniejszenie ich rentowności jest kluczem do sukcesu w walce z przestępczością zorganizowaną. Ulepszenie międzynarodowego prawodawstwa na rzecz rozwoju stworzy zintegrowany system środków przeciwdziałania zorganizowanej przestępczości ekologicznej na poziomie poszczególnych państw oraz zapewni ujednoczenie krajowych systemów prawnych w zakresie terminologii, składu i sankcji stosowanych za popełnianie przestępstw przeciwko środowisku przez grupy zorganizowane.

Резюме. Во всем мире современная экологическая преступность характеризуется появлением новых форм преступного поведения, совершенствованием способов совершения преступлений и постоянным расширением участия организованных преступных групп и общин в их совершении. В настоящее время организованная экологическая преступность вместе с экологическим терроризмом представляют значительную угрозу безопасности. Отличительными чертами организованной экологической преступности являются: долговечность и стабильность преступной организации, которая в большинстве случаев эффективно управляет комплексом преступной деятельности с организационной и экономической точек зрения, а также обладает способностью уменьшить связанный с этим риск, долгосрочное планирование деятельности, привлечение коммерческих организаций и структур, создание преступных сетей. Еще одной характерной чертой является концентрация на рынке (в том числе на нелегальном). Организованные группы часто занимаются преступной деятельностью в различных областях, совершая экологические, экономические и другие преступления, и их неотъемлемой чертой является коррупционный элемент. Организованная международная экологическая преступность осуществляет свою деятельность в таких ключевых сферах: незаконная торговля редкими и исчезающими видами дикой фауны и флоры и их производных, незаконная вырубка и торговля незаконной древесиной, незаконная торговля отходами, включая незаконную перевозку, хранение и захоронение, трансграничный поток опасных отходов, нелегальная рыбалка. Правоохранительные органы разных стран, объединяя свои усилия по снижению преступного поведения с экологической точки зрения, нейтрализуют все стадии преступности: планирование, незаконное извлечение природных ресурсов, транспорт, маркетинг, отмывание доходов от преступлений, играют важную роль в борьбе с организованной экологической преступностью. Ликвидация экономических основ преступных групп и снижение их прибыли, является ключом к успеху в борьбе с организованной преступностью. Совершенствование международного законодательства в пользу развития создаст комплексную систему мер по предупреждению экологической организованной преступности на уровне отдельных стран и обеспечит обобщение национальных правовых систем в области терминологии, состава и санкций, применяемых при совершении экологических преступлений организованными группами.

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