ORGANISED CRIME IN THE ART FORGERY MARKET

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‘We see more Picassos in a week in organized crime than Picasso ever painted’. Vernon Rapley, Head of the Art Crime Unit, Metropolitan Police Service

SUMMARY

One of markets, in which organized crime may focus its vital interests, is the art market which is one of the most rapidly growing, prosperous and up-and-coming capital markets in the world. Operating within this market and colonizing its various particular fields give criminals not only the possibility to gain huge money but also the possibility to hide money stemming from illegal sources. Among possible forms of activity of organized crime in the art market there are identified instances of trading and turnover with forged goods. The issues of engagement of organized crime in a certain kind of industry dealing with production of non-authentic artworks, an attractive business of trading of forged artworks or also shady services letting to ‘legalize’ forged goods in the art market don’t lie in the mainstream of interests of contemporary criminology dealing with various pathologies connected with activity of organized criminal groups and their members. It’s not easy to estimate the real scale of forgeries of artworks and other crimes assisting such forgeries, committed either by individual perpetrators or criminals involved in organized criminal groups. Such crimes are reported and revealed only in a small percentage of cases and surely a huge number of mentioned crimes remains undiscovered and is embraced by so-called dark figure. Counteracting against organized crime operating in the art forgery market is a difficult and challenging task. Perpetrators of art forgeries and other related crimes realize that the risk to be finally convicted and, in consequence, harshly punished is rather low.

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Art forgery, art forgery market, organized crime, crimes against art, frauds, money laundering

EXPANSIVENESS OF ORGANISED CRIME – GENERAL INTRODUCTORY REMARKS

In criminological sense organized crime is generally and broadly defined as any group of three or more individuals working together in criminal enterprises for collective, long-term goals. These goals are connected with obtaining financial or other material benefits. This definition embraces either small groups (like local gangs) or huge criminal organizations (like mafias). Organized criminal groups attempt to regulate and control either production or distribution of a given commodity or service unlawfully. Organized crime operates actively not only in so-called illegal markets but also in legal ones. Whereas large-scale criminal organizations are rather rare, illegal money-making activities occur everywhere.

Undoubtedly, a one of trends has been observed in organized crime since many years as well as nowadays is fitting its structures, profiles and fields of activity to trends and situations existing in different markets. The trend of restructuring of criminal enterprises in response to changes appearing in world markets and their regulation was

6 See: G. Fiorentini, Organized Crime and Illegal Markets [in:] B. Bouckaert, G. De Geest (eds.), Encyclopedia of Law and Economics, Volume V. The Economics of Crime and Litigation, Cheltenham 2000, p. 445 – 449. The notion of illegal market seems to be loose. Phenomena covered under this notion are heterogeneous and also comprise markets that are, as such, legal but involve a great number of illegal activities. However, there exists a typology helping to clarify various forms of illegality on markets. This typology distinguishes illegality along four different dimensions: 1. illegality due to outlawing of specific products; 2. illegality of the market exchange of an otherwise legal product; 3. illegality of exchange due to theft or product forgery; 4. illegality due to the violation of regulatory stipulations. (Cf. J. Beckert, W. Wehinger, In the Shadow. Illegal Markets and Economic Sociology, Max-Planck-Institut für Gesellschaftsforschung Discussion Paper 11/9, Cologne 2011, pp. 3 – 4.
noted in final decade of the 20th century. Key factors in understanding the development of organized criminal groups are especially quick technological progress and many new opportunities provided by the phenomenon of globalization and communication. In order to exploit these new opportunities, offenders have to acquire more particular knowledge and expertise which are often possessed only by professionals. In consequence of it, organized criminal groups are increasingly recruiting professionals with specific skills so that they can infiltrate new markets and obtain greater benefits. Apart from flexibility of contemporary criminal organizations (which aspect is also decentralization of organizational structures), a frequent feature of such organizations are also their transnational dimension and capability to cooperate with other criminal organizations, also in order to establish criminal networks. All these features enable organized criminal groups to maximize advantages benefiting from their activities in the sphere of business (both legal and illegal) and minimize their disadvantages, like their vulnerability to law enforcement (arrest of their members and seizure of their assets).

THE ART MARKET AS A PRECIOUS FIELD OF INTEREST OF ORGANISED CRIME

One of markets, in which organized crime may focus its vital interests, is the art market. Operating within this market and colonizing its various particular fields give criminals not only the possibility to earn huge money but also the possibility to hide money stemming from illegal sources, like, for instance, drug trafficking or serious frauds. According to a popular definition, the art market is a physical or figurative venue in which art is bought and sold. At its most basic the art market requires a work of art, a seller and a buyer, who may participate directly in negotiations or be represented by agents. The development of the art market depended crucially upon three factors: the emergence of collectors, the production of movable works of art and the development of mechanisms of selling these works of art, either directly (by artists) or via intermediaries (like art dealers or auctioneers). Since the 17th century, professional intermediaries have dominated the art market and have been joined by other subjects, such as art consultants. The art market has expanded immensely through cultural globalization, satellite communication and the development of the Internet. This kind of market can be primary or secondary. The primary art market means that a work of art comes to the market for the first time.

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9 Ibidem.
10 Ibidem, p. 11.
13 See: ibidem.
time when the price for a work of art is established for the first time). If the work of art is purchased in the primary market and a purchaser decides to sell it, the work of art will enter the secondary market. The primary market includes works that are supplied by artists who are usually represented by galleries. The secondary market includes multiple tradable works and it involves the sale, the purchase as well as the exchange of works among galleries, collectors, dealers and museums. In trading of art there are engaged artists, collectors, individual art dealers (gallerists, dealers, agents), institutional art dealers (auction houses, art galleries, museums) and various specialists in the field of art. Artists create the main supply of works of art in the market. Specialists aren’t directly engaged in creation of the supply or demand of works of art but their opinions or criticism may impact the demand for a certain work of art or its cost. Collectors and art dealers are interested in buying or selling of works of art.

Nowadays, the art market is one of the most rapidly growing, prosperous and up-and-coming capital markets in the world. It’s still insatiable and its value is really impressive. To illustrate it, it’s worthy to add that according to the newest TEFAF Art Market Report 2017, sales in the art world market reached at least 45 billion U.S. dollars ($) over the whole year 2016. In terms of art sales made through auctions, private sales and dealers, Europe - as a continent - is the largest art market in the world. Experiences and conclusions resulting from recent financial recessions and crisis, less reliance of investing participants of the market game to traditional forms of investments and their growing need for investment safety caused that investors reoriented their look at alternative areas of investments, including the art. Works of art – from traditional point of view primarily admired for their artistic and esthetic values preceding their economic value – became also a required element of investment portfolios and in present times they’re unquestionably a new category of assets. Alternative investments in arts may be direct (if, for instance, a work of art is bought by an interested person directly from an art gallery or in auctions) or indirect (if, for instance, an interested person buys shares of enterprises active in the art market and possessing works of art as their assets). A work of art may be treated by a potential purchaser as a short-term or a long-term investment, but sometimes the investment in arts may bring satisfying benefits for an investor even after several years.

In fact, the link between the art and finance is very strong. For example, in many countries of the world, the branch of banking services called ‘art banking’ still increases

16 Ibidem, pp. 9 – 10.
18 See: ibidem, p. 2.
19 See: Rynek sztuki..., p. 5.
20 Cf. e.g. J. Ďad’o, N. Fekiačová, op. cit., pp. 10 – 13.
and such service is offered by private banking advisors to greater and still growing number of well-off bank clients, domestic and international art galleries and auction houses sell more works of art and lots of them (especially paintings of famous European old and modern masters) reach even very high prices, a sui generis economic awakening concerns artistic antique shops, antiquarian bookshops or other old curiosity stores which successfully and widely sell their goods for millions of clients from all over the world, also using Internet platforms. Generally, the art market has a very good condition. This evaluation results from the presence and activity in this market not only private subjects (like collectors and investors who are natural or legal persons) but also public ones (like public museums and other public institutions of culture).

In the light of the given above basic data and very short characteristics of the art market, it’s no wonder that even organized crime, following market trends carefully, could be interested in finding itself a convenient place in realities of the art market. Among possible forms of activity of organized crime in this market there are identified instances of trading and turnover with forged goods. Organized crime, participating in all ways and forms of selling of works of art (i.e. through auctions, art galleries or through other channels, including private sales by Internet), causes that no such form is free from the risk that someone may acquire a forged work of art and in consequence - become a victim of fraud. Of course, activity of organized crime in the art market related to forgery of art and to trade with non-authentic artworks may be not exclusive but just one of other forms of illegal activity, which organized criminal groups deal with and treat them as primary. Such forms of illegal activity – according to the rule of diversification in business (including criminal one) – can be e.g. art crimes like art theft or antiquities looting, drug trafficking, arms trafficking (gunrunning), trafficking in human beings, financial crime, terrorism. It’s worthy to add that organized crime active in the art market seems to be expressly differentiated. On the one hand in the art market there is the space in which small, ‘chamber’ criminal groups find opportunities to operate. Such criminal groups have simple, basic structures and they can be composed of a forger, an expert and an art dealer. Members of such organized criminal groups do their illegal business without using of violence which very often is treated as a typical and important attribute of organized crime phenomenon. On the other hand – the art market may be penetrated by large, counting many persons criminal groups which have advanced, complicated structures and a long-term strategy of their activity. For instance, such criminal groups introduce their trustworthy people into professional corporations dealing with art trade and this maneuver gives them possibility to carry out wide-scale transactions. Another method of activity of serious organized crime in the art market is the recruiting of recognized experts who, then, make an attribution of a forged work of art and estimate its provenance. This method lets to dull potential purchasers’ vigilance and facilitates to cheat them. Appearance in the art market of forged objects which imitate works of art is connected with spreading, among art dealers (individual and institutional) and other interested persons, of exciting information that these objects are elements of previously unknown or unrevealed collections or they come from new archaeological sites. Therefore, to play illegal games in the art market it is necessary to involve persons with unique and wide knowledge about works of art and mechanisms

concerning their buying and selling23. Organized crime applies in its activity the newest technologies and Internet in purpose to control the art market, to follow and identify its trends, so – to operate in the art market more and more effectively24. Trading in forged works of art which is connected with rather large international organized crime is dominated especially by Chinese and Mexican organized criminal groups as well as by African and Vietnamese criminal groups25. However there exists an observation that the most forgery and deception crimes (including forgeries and deceptions in the field of art market) tend to be perpetrated by individual or pairs (a forger and a front man who passes off the works as authentic through one of a series of confidence tricks) without connection to larger groups or other criminal activities26.

PHENOMENON OF ART FORGERY – EVERLASTING AND UNAVOIDABLE PROBLEM

Forgeries of art appeared very early in the history and the development of a phenomenon of such forgeries was resulted from economic incentives. Forged works of art were in circulation, among others, in ancient Egypt, Greece, Rome or China and they were subjects of international trade of those times. Forgers of ancient world were producing, for instance, sacral symbols - because these objects were popular and marketable - and luxury goods (like porcelain and jewellery), because these objects were attractive and desirable. To respond to the demand, forgers were establishing prosperous forgery enterprises. In medieval times, forgers were active in production of objects of religious cult, relics, paintings and sculptures27. With the rise of authorship as well as the idea of individual creative forces, the market value of works created by recognized artists started to rise, not only because of their exquisite artistic features but also because of their economic worth. Works of art became commercial items. Purchasers of pieces of art were interested in owning such goods but they mostly wanted to become owners of works created by recognized artists. In this way they built their reputation of connoisseurs and rich men. In the Renaissance, which was the epoch of artistic richness, outstanding talents and

23 Ibidem.
24 Ibidem.
expansion of the art market, forgeries entered the mentioned market in full force\textsuperscript{28}. After the Renaissance, the art market continued to grow and growing demand for different pieces of art fostered a perfect climate for churning out art by master artists and their apprentices who were signing their works in order to identify them as works of concrete artists or their workshops (schools). In the perfect climate of needs concerning art there also appeared a paradise for forgers - forgeries were saturating the art market because there were not enough works to satiate interested purchasers\textsuperscript{29}. In later times, when the art market had been becoming gradually more and more attractive as the market for investors, in which prices of art were pushing up, forgeries have been on the rise with the growing value of arts. Nowadays the art market is the kind of market where forgeries take its significant part but the real number of forgeries is unknown\textsuperscript{30}. Last decade, some experts (representing European police structures) purported that even half the art in circulation on the international market could be forged\textsuperscript{31}, some other experts specializing on the art market issues provided different evaluations, sometimes expressing even opinions that forgeries may cover much more than half the art market\textsuperscript{32}. (For instance, it is observed that in case of graphic works of Salvador Dali even 90% of objects available on the art market are forged works; it is also observed that the market for Russian avant-garde works, for which really high prices are paid, is full of forgeries which are works certified as authentic by fabricated expertises\textsuperscript{33}). Anyways, the huge number of non-authentic works of art in the market may suggest that the potential criminal activity of forgers (fakers) or frauds in this market seems to be an interesting criminological problem which shouldn’t be disregarded by law enforcement agencies. Apart from the fact that non-authentic works of art deluge the art market encompassing its significant part, another issue is that such works are and could be elements of many established collections, either private or public. They aren’t present in the art market nowadays, but they can appear in the market in future becoming source of many frauds, like, for instance, insurance fraud or tax fraud.

Although terms ‘fake’ and ‘forgery’ are often applied interchangeably, it’s worthy to remark that experts and art dealers distinguish fakes from forgeries, defining fakes in general words as works of other artists that are passed off as works by more important artists (in order to increase their prestige and value) and forgeries – as works made deliberately to resemble the real thing (the genuine work of art)\textsuperscript{34}. In other words, a faked art object is an object made to resemble the style of an original artwork, while a forged art

\textsuperscript{28} See: L. A. Amineddoleh, \textit{Are You Faux Real? An Examination of Art Forgery and the Legal Tools Protecting Art Collectors}, Cardozo Arts and Entertainment Law Journal Vol. 34, No. 1, 2016, p. 64.
\textsuperscript{29} See: ibidem, pp. 65 – 66.
\textsuperscript{30} See: ibidem, pp. 66 – 68.
\textsuperscript{34} See: ibidem.
object is an exact copy of an original artwork which is sold as the original. Taking this distinction into account, it could be said that a number of fakes exceeds a number of forgeries in the art market. Nevertheless, in the context of possible particular issues related to criminal liability of perpetrators for their acts, above mentioned distinction doesn’t seem to be clear enough and it should be discussed more precisely. In the art world, in cases related to art fraud, a ‘forgery’ will be essentially recognized as crime of producing works of art for the fraud purposes jointly with producing false documents confirming the authenticity of provenance of such works of art. In turn, a ‘fakery’ of art – as commonly understood – is the word implying both that the work in question is not authentic and that it has been intentionally produced to deceive or to mislead somebody. In the legal context, application of this term describing a criminal act demands combination of two elements: a physical element (an object which is not what it appears to be) and a mental element (the intention to deceive somebody for purposes of gaining financial advantages). However, in fact, there are many situations in which just the physical element would be applied and there exists no intent to deceive somebody for purposes of gaining a financial advantage. In most countries in the world an artist can make copies of great artworks quite legally, but he or she will be committing the crime and civil wrong of fraud if an attempt is subsequently made to profit from selling items with the misrepresentation that they are not copies.

There are distinguished two basic methods of forgery of works of art. One is a forgery by imitation of an original work (it concerns a whole original work) and another is a forgery by modification of an existing work of art (such forgery concerns a part of an original work of art). The first method of forgery comprises production of copies of original works of art which are performed to potential recipients as originals as well as making stylizations or pastiches which are new objects indeed and they don’t relate to any real work of art because an original work of art simply doesn’t exist. The second method of forgery comprises, in turn, the removing of a certain element (or certain elements) of a work of art and replacing them by new ones, adding new elements to an original work of art or performing a part of an original work of art as the whole, complete work of art.

Forgers – persons who want to obtain financial profits from their activity working alone, in pairs or in groups (as members of organized crime) – are the significant majority in comparison with such persons who only intent to fulfill their artistic ambitions (it’s estimated that there are 98% of forgers acting in order to enrich themselves or structures they are working for, and 2% of persons faking works of art to get exclusively a pure

36 See: T. Sykes, op. cit.
artistic satisfaction)\(^{40}\). In some cases certain forgers in their pejorative estimated activity may be strongly motivated by the need to be acknowledged and admired or by the desire to revenge or to discredit of a certain person, like an expert, or even an institution\(^{41}\).

ART FORGERY CRIMES – CHALLENGES OF NOWADAYS FOR CRIMINOLOGY AND CRIMINAL LAW

The issues of engagement of organized crime in a certain kind of industry dealing with production of non-authentic artworks, an attractive business of trading of forged artworks or also shady services letting to ‘legalise’ forged goods in the art market don’t lie in the mainstream of interests of contemporary criminology dealing with various pathologies connected with activity of organized criminal groups and their members. However, distribution and selling forgeries of diverse works of art is very lucrative. It is caused by growing demand for arts, including antiquities (which are purchased and collected not only in order to be a financially rewarding investment) but also – by presence, among potential purchasers and collectors, of many persons who admittedly are wealthy and require even very expensive pieces of arts, but simultaneously they have no or they have just less experience in the field of art. Sometimes a forger’s best ally is simply human’s psyche. A potential purchaser of an item offered as an art work may think that he or she got a really outstanding bargain and he or she subconsciously denies his or her second thoughts concerning authenticity of this item\(^{42}\). Unfortunately, not only dilettantes and snobs may become victims of organized criminals specializing in production and illicit trafficking in faked or forged arts. Sometimes also persons or institutions equipped in bigger experience in the field of art as well as having better possibilities to avoid mistakes in decision-making process on acquiring artworks become victims of professional criminals participating in organized groups dealing with crimes related to art forgery. It proves that in a great number of cases, forgeries of art objects are of a suitable or even high quality and the market where these forgeries circulate unfortunately has no effective mechanisms to clean itself from these forgeries and other linked illegal phenomena spoiling the market seriously and being its basic risk factor for subjects functioning in this market as different types of purchasers\(^{43}\). Needless to say that in the market constantly circulate imitations of works of art which were forged not only by contemporary forgers (still living) but also by forgers who lived in the past, including long-ago history. By the way, lots of faked or forged objects imitating masterpieces of art or other acknowledged works of art aren’t completely worthless ‘rubbish’ but they may be estimated – taking into account their age,  

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technical quality or fortunes and vicissitudes – as the art in the common sense of this word\textsuperscript{44}. Sometimes, for sake of their high quality, they could seem to be equal or even better than original, authentic works of an imitated artist\textsuperscript{45}. And it is well visible in their economic value (a good illustration of this statement are current market position and prices of works of such famous forgers as, for instance, Han van Meegeren, Elmyr de Hory, Eric Hebborn or Wolfgang Beltracchi). But at least most of them can’t become the art in the true, aesthetic sense of this word – they are ‘disabled’ because of the lack of the ‘metaphysical aura’ of authentic works or their aesthetic dimension\textsuperscript{46}.

Professional criminals committing art forgery and other closely related crimes could be recognized as real criminal elite (obviously in a certain meaning of this phrase). Organized groups, especially small ones, can be frequently profiled only by this kind of criminal activity which sometimes is also covered by legal forms of activity in the art market. Such groups may be composed of artists stemming from different areas of art (including even well-educated artists), experts of art (like specialists in history of art), experts of art market (even with academic titles), art advisers or art consultants, persons employed by art galleries, museums or other institutions of culture, art dealers. Generally, a forgery may concern everything what could be considered as a piece of art, either historical or contemporary, and is sought in the market. The most often, such pieces are: paintings made in different techniques, woodcuts, copperplates, sculptures, woodcarving products, furniture, clocks, porcelain products, pottery products, seals, fabrics, carpets, lace, arrases, coins, medals, old maps, historical musical instruments and many, many others. Forgeries of art (as well as antiquities) may be classified into two general groups. The first group contains objects dedicated to less affluent people or dilettantes. These objects are produced by forgers on a mass scale and in the process of forgery forgers usually use not advanced methods and techniques. The second group contains objects which are offered for more wealthy purchasers, especially collectors or investors. Such objects often are imitations of


works of art which are recognized as masterpieces. Production of such objects is rather a challenge – it’s quite complicated, arduous and expensive. Forgers are high-class specialists and they know details of artistic manners and styles which are typical for artists selected by them. They also know well the colour of epoch in which a certain artist created his or her works, features of his or her personality and psychological profile as well as aspects of history of his or her life. They attain and use tools or materials similar to these which were used by original artists. This kind of forgery of artistic objects appears in the market much more rarely than the forgery of artistic objects destined for more common recipients47.

Criminals, to mask the fact that an artistic object is forged, engage to production of forgeries outstanding ‘specialists on artistic camouflage’ who compete with other specialists, whose task is to protect the art market against spoiling. The artistic camouflage concerns various aspects of making a forged object reliable in the market, like the application of proper means and techniques to create a perfect imitation of existing artwork or a new work in style of a certain artist which is announced as ‘unknown till now’ (so-called ‘original forgery’48), or the ‘legalisation’ of forged artistic objects by preparing appropriate documents of origin as well as opinions or expertises which are – in many cases - ambiguous. Sometimes criminals, to promote forgeries as authentic works or objects, engage also corruptible employees of art galleries or auction houses, mass media and journalists who write articles for specialist periodicals, describing qualities of a promoted work or object49. However, at present, achievements of technique and technology could be applied to examine suspicious and controversial works or objects much more easily and by more experts than it was in the past. Complex methods used in course of examinations are available not only for forensic experts working for law enforcement bodies and justice but also for other scientists like e.g. art historians. Methods like Raman microspectroscopy, X-ray diffraction, scientific photography, radiocarbon dating, thermoluminescence, fingerprint analysis, using of histograms, testing fibers from canvases or papers, or testing hairs from paint brushes, enable to identify forgeries and generally they can cause that lives of forgers and other criminals engaged in art forgery will be much harder50. Interested persons or institutions should reach for them more often and more readily, and even automatically. Unfortunately, some possible examinations of suspicious objects, especially involving physiscochemical methods, are expensive and probably this is the principal reason that in many cases they are not ordered by interested persons as well as they are less popular and not frequent in criminal proceedings51.

49 See: W. Pływaczewski, Pranie pieniędzy oraz inne nielegalne transakcje finansowe..., pp. 181 – 183; idem, Nielegalny rynek dzieł sztuki z perspektywy instytucji finansowych, pp. 87 – 89.
51 For instance, the problem of costs of examinations using physiscochemical methods and their small popularity in criminal proceedings in art forgery cases in Poland is discussed in literature. See: D. Wilk, Identyfikacja dzieł sztuki nowoczesnymi metodami fizykochemicznymi w procesie karnym [in:] M. Trzcitński, O. Jakubowski (eds.), op. cit., pp. 210, 217 – 220.
Forgeries of pieces of art sometimes may be crimes *per se* (‘pure’ art crimes) but very often they’re elements of other crimes – frauds, especially serious frauds. Financial benefits brought by such crimes are, in turn, subject of money laundering and sometimes they can be allocated for supporting terrorist activity. It’s also possible that products of art forgery could be treated as bribes and used to corrupt officials of state or local governments, at least in some countries. Such officials are aware that they accept bribes and think these bribes are genuine artworks but in fact it’s not true.

So, a forgery of art generally should be classified as property crime. Sometimes it could be described as economic or tax crime, if it threatens economic interests of entrepreneurs or fiscal interests of states. At last, a forgery of art may be categorized as public-order crime. Committing of above-mentioned crimes may be linked to forms of activity of transnational organized criminal groups which basically are large and capable to create well-functioning criminal networks.

It’s not easy to estimate the real scale of forgeries of artworks and other crimes assisting such forgeries, committed either by individual perpetrators or criminals involved in organized criminal groups. Such crimes are reported and revealed only in a small percentage of cases and surely a huge number of mentioned crimes remains undiscovered and is embraced by so-called dark figure. However, considering activity of organized crime in the art forgery market, it’s possible to present some examples of art forgery cases which were exposed by mass media.

In 2013, Finnish public prosecutors charged six members of an organized criminal group with assisting in aggravated fraud, assisting in forgery, aggravated fraud, forgery and aggravated money laundering. These crimes were related to the art market and concerned intentional trading in bogus works of art. All suspects were regular art dealers and within their professional activity they sold in 2009 three pieces of art – paintings signed by names of famous artists: Antonio Saura, Chilean Roberto Matta and Francis Picabia. A foreign purchaser of these artworks paid for them a total sum of 150 000 euros (€). All signatures of the mentioned painters as well as authenticity certificates of sold paintings (given by two Parisian art galleries) were faked. Suspects denied the charges claiming that they haven’t known the paintings were forged at the time of making the deal with the purchaser.


52 E.g. The link between financing of terrorism and selling of forged art works on auction Web site eBay and in antique markets in Great Britain was identified by British police enforcement bodies some years ago (see: *Forged Iraq Art Used to Fund Terrorism: UK Police*, World News, Wednesday, November 22, 2006, http://www.reuters.com/article/us-britain-forgery-idUSL2235675220061122, 26.05.2017).


54 See: W. Pływaczewski, *Nielegalny rynek dzieł sztuki z perspektywy instytucji finansowych*, p. 86.

abstract expressionist artists, including Mark Rothko, Jackson Pollock, Willem de Kooning, Robert Motherwell and Clyfford Still. Jose Carlos Bergantiños Diaz and Pei Shen Qian fabricated modern art paintings and afterwards these paintings were sold via several New York art galleries (including one very famous – M Knoedler & Co. Gallery, closed in 2011 because of selling forgeries, after it’s over 150-year history56) to misled purchasers for more than 33 million U.S. dollars ($). Illegal proceeds were laundered and hid overseas. According to the indictment, Jose Carlos Bergantiños Diaz – to make the paintings more convincing – bought old canvases at flea markets, stained newer canvases with tea bags to make them look older, gained old paints and then delivered them to Pei Shen Qian in order to use them in preparing imitations57.

CONCLUSIONS

Organized crime is quite active in the art market and this activity has many particular aspects. One of them - observed by various authors and by functionaries of investigation or criminal justice bodies - is the participation of organized criminal groups in the art forgery business. However, it seems that organized crime – according to its most common and popular criminological definition - rather doesn’t dominate in the sphere of above-mentioned kind of illegal business. There exist convincing research findings displaying that a pivotal role in the global art forgery market is still played by individual perpetrators or pairs of perpetrators but not by organized criminal groups. Nevertheless, problem of engagement of organized crime in the art forgery market shouldn’t be treated as a pure academic question and marginalized in practice. Either domestic or international criminal groups, smaller or bigger, less or more professional, acting alone or cooperating in criminal networks, may be interested in taking profits from transactions related to products of art forgery. The art market is seriously endangered by various criminal activities of organized crime (including also art forgery crimes). Unfortunately, there are no mechanisms which, in practice, could provide safeguards effective enough to protect entirely the art market against the most detrimental of such pathologies.

Counteracting against organized crime operating in the art forgery market is a difficult and challenging task. This activity is not only beneficial for criminals but also well-hidden and in many cases having transnational dimension. Lots of crimes are not reported to police and other investigation bodies because of different reasons (for instance, a long-lasting unawareness of purchasers or just a shame and fear of being discredited in a society). Many others are reported to proper institutions, but after a long time from the moment a concrete crime was committed. Another issue is a deficit of credible witnesses in criminal proceedings concerning art forgery crimes (or sometimes a lack of any witnesses at all). By the way it should be also highlighted that a certain number of experts’ opinions appearing in criminal proceedings concerning art forgery cases may be not sufficient to remove all possible doubts and finally solve such cases in a proper, correct way.

In result, criminal proceedings concerning organized art forgery crime are usually touched and impeded by evidence problems or a problem of time-bar and finally doomed to failure. Perpetrators of art forgeries and other related crimes realize that the risk to be finally convicted and, in consequence, harshly punished is rather low.

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SANTRAUKA

Viena iš rinkų, kurioje organizuotas nusikalstamumas gali sutelkti dėmesį į savo esminius interesus, yra meno kūrinių rinka. Tai viena iš greičiausiai augančių, klestincių ir sėkmingiausių kapitalo rinkų pasaulyje. Veikimas šioje rinkoje, apimantis ir įvairias tam tikras meno kūrinių rinkos sritys, nusikalčiāiams suteikia galimybę ne tik įgyti didelės sumas pinigų, bet taip pat ir slepėti pinigų iš nelegalių šaltinių judėjimą. Tarp galimų organizuoto nusikalstamumo formų meno kūrinių rinkoje yra suklastotų kūrinių prekybos ir judėjimo pavyzdžių. Šios rinkos organizuoto nusikalstamumo problemas yra kova su neautentiškų ir suklastotų meno kūrinių prekyba, taip pat ir įtartinos paslaugos, kurios leidžia suklastoti pinigų. Tai nėra pagrindinis dabartinės kriminologijos, kovojančios su kitomis patologijomis, susijusiomis su organizuoto nusikalstamumo grupėmis ir jų nariais, interesas. Nėra paprasta įvertinti tikrųjų meno kūrinių klastojimo ar kitų nusikaltimų, papildančių klastojimo veiką, išsitraukiant ją organizuotų nusikalstamą grupę, mastą. Be to, nėra daug tokių atvejų, kai apie tokius nusikaltimus yra pranešama ir jie yra atskleidžiami, todėl didelis skaičius tokų nusikaltimų taip ir lieka neatskleisti.

Veikti prieš organizuotą nusikalstamumą suklastotų meno kūrinių rinkoje yra sudėtinga ir reikalauja daug jėgų ir pastangų. Nusikalčiāiams, klastojantys meno kūrinius ar vykdantys kitus susijusius nusikaltimus suvokia, jog tikimybė būti nuteistam ir nubaudam yra pakankamai maža.

REIKŠMINIAI ŽODŽIAI

Meno kūrinių klastotės, suklastotų meno kūrinių rinka, organizuotas nusikalstamumas, nusikalčiāmai menui, sukčiavimas, pinigų plovimas