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Anonymization of the Ultimate Beneficial Owner

Introduction

Actual level of development of organized crime, as a phenomenon, is characteristic by the formation of an organized criminal environment. Significant majority of lucrative activities and transactions of an organized crime is not performed only within a criminal environment of organized crime groups, but in an organized criminal environment, consisting of criminals, forming the control structure of illegal and legal activities in cooperation with number of other persons that are not aware of their active participation on criminal activities and conversely, they believe that their acting is legal.

One of the main trends of organized crime that we may see in these days, is related to the above-mentioned. It is an extension of activities towards less violent and less risky, but still criminal and even more profitable activities. This activity is based on control or significant intervention into interest areas by the penetration into public authorities as well as to private subjects, while such profit is acquired by illegal and illegitimate instruments. These includes e.g. the misuse of lobbying, entrepreneurship or outsourcing that, in their version, e.g. makes the public tender (acquired often by a fraudulent manner) more expensive.

Organizers of a modern organized crime “have such funds available either because the laws respective to such acting did not regulate such activity as illegal, or because the actual regulation of respective environment is insufficient or respective partial steps are compliant with the law, but their chain ends in illegal acting. At this kind of a so-called modern organized crime, it’s not possible to speak “de iure” about it as about an illegal acting, despite the fact that it’s, without doubts, an unwanted and highly dangerous activity from the social point of view. For the criminal authorities, applying criminal law instruments, there exists only a minimum space within uncovering and elimination of a modern organized crime”.¹

The presence and existence of a modern organized crime may be revealed only by the identification of indicators, i.e. external expressions of non-standard economic activities. The indicators of mentioned negative, and for the society very harmful phenomena, are the economic operations that differ from standard ones only in certain aspects. For third parties, they are only hardly perceivable as the mentioned transactions are legally covered by contracts in a way that they may not be ended before their expiration or terminated without extraordinary sanctions, and no one “inadequate” would take a look into business documents, as they are covered by legal clauses that prohibit it under the sanctions. Legal instruments, like business and

¹ See Odbor bezpečnostní politiky ministerstvo vnitra. Koncepce boje proti organizovanému zločinu na období let 2015–2017. p. 5-6.

banking secret, right for the protection of personality, assets etc. are used. For the use of mentioned and similar instruments, expert from the fields of, in particular, economy and law, are utilized, like accountants, auditors, financial brokers, attorneys and other with regard to the nature of business transaction.

Indicators signalling non-standard acting may be e.g. anonymous trades, anonymisation of the owner, non-transparent ownership structure of the company. The instruments and methods that help the criminals in their criminal activities, but in particular to organized criminal groups to accomplish their criminal business, are different ways of anonymisation of criminal, but also legal transactions, anonymisation of owners of assets coming from criminal and legal sources, included into comprehensive and non-transparent ownership structures of business companies.

Assets and the possibilities of their anonymisation

The principle of covering the ownership is based on the differentiation of ownership from economic point of view and from the legal rules' perspective. The ownership in a "legal" and "economic" point of view may be illustrated on an exemplary situation from the Czech Republic: in Czech economic and legal environment, the owner of a limited liability company (or of a joint stock company) is a partner (or shareholder). From an economic point of view, its owner is the one, who may, on the basis of power of attorney, dispose the assets, while the mentioned power of attorney is non-terminable in practice by the others, i.e. by persons that did not receive power of attorney. The closest person to the owner from an economic point of view is the holder of proxy. However, the proxy may be always terminated by the Board of Directors of the company (or by the owners of the company).¹

The most frequent ways how to keep anonymity of structure of company assets may be based on the following forms of assets or the ways of disposal of such assets: bearer shares, registration or immobilisation of shares, general power of attorney, trust, management of foreign assets, foreign partner or establishment of a company in offshore jurisdictions, transfer of equity certificate and a nominee.

Bearer shares. The economic ground of bearer shares is the fact that the joint stock company issues shares only in physical (paper) form and provides it to his shareholders, thus allowing to hide the owner of assets, owned by a joint stock company, and the use of paper bearer shares as a payment instrument. In these days, there's the tendency to push regulation ahead, according to which the joint stock companies could not issue bearer shares. Anonymous paper shares (so the so-called bearer shares) still exist all over the world, even in Europe (e.g. in Germany, United Kingdom).

In the Czech Republic, respective measures have already been adopted² in relation to this fact, that should lead to higher transparency of asset structures of joint

¹ BRADA, Jaroslav. Detekce účastníků anonymních transakcí akciovými tituly. In: *Bezpečnostní teorie a praxe*. 2015, No. 3, p. 77-92.

² § 2 **Changes in the form of shares** pursuant to act No. 134/2013 Coll. By January 1, 2014, paper bearer shares that are not immobilized shall be transformed to registered shares; On this day, also the respective change of company bylaws comes into effect; For the change, according to the first sentence, registration into the Commercial Registry is not necessary.

stock companies and to make the detection of ultimate beneficial owners easier, e.g. the clients of persons with obligations, furthermore during the investigations of public authorities, but also to help the joint stock companies in relation to the proof of structure of shareholders. Now, joint stock companies may not issue anonymous shares (bearer shares) in the Czech Republic anymore and by the end of June 2014, on the basis of act No. 134/2013 Coll., on Certain Measures to Increase the Transparency of Joint Stock Companies (hereinafter referred to only as the Transparency Act), shareholders were obliged to transfer anonymous shares to the registered ones or to “immobilize” them at a registered trustee, acting on the basis of law.

The possibility to transfer shares in joint stock companies, expressed in a form of bearer shares, operatively, was limited markedly by the adoption of mentioned Transparency Act. Bearer shares still exist, however, only in an immobilized form, where the owner is not identifiable in the registry, however, in the extract of respective joint stock company. Here, the information about the shares’ custodian and about its ownership is kept in evidence. Therefore, it’s not possible to identify in a standard way, who is the owner of respective shares. The ownership of shares is kept in evidence of the custodian and the previous anonymity of bearer shares, so popular and used, is thus markedly reduced. Although the anonymous shares were stopped by these measures, the anonymous ownership was not eliminated.

The proof of this fact is the number of possibilities how the assets may be anonymized while the asset structure remains hidden to general public (and also for majority of obliged persons¹) all the time and the registration of share means only the fact that the owners in the first line may be identifiable for public authorities, active in criminal proceedings. When the Transparency Act came into effect, number of joint stock companies adopted below mentioned ways how to keep the “de facto” owner of the share secret.

General power of attorney for the disposal of assets (and liabilities) of the business corporate is used as the basic instrument for the so-called “international tax planning” and it’s also used as a basic instrument to hide the ownership of companies in case the companies have the obligation to publish the list of its owners (shareholders). By the issue of a “general power of attorney”, the ownership right is, in fact, – the right to dispose assets and liabilities of the company – transferred from the existing, publicly known, owners specified in the “registries of owners” (including the list of shareholders or owners kept in the company alone) to such authorized person that is, however, never kept in evidence anywhere as the owner of the company from a legal point of view. Then, for the sale of such company it’s enough to change the authorized person, having the “general power of attorney to dispose the assets of company” while the owners of the company do not change “from the legal perspective,” i.e. the owners of the company, registered in the registries of owners”.²

Change of the form of shares according to the provisions of the act, regulating legal issues related to corporations and cooperatives shall not apply.

¹ Exhaustive list of obliged persons is specified in act No. 253/20018 Coll. on Certain Measures against the Legalisation of Incomes from Criminal Activities and Financing of Terrorism.

² Viz BRADA, Jaroslav. Detekce účastníků anonymních transakcí akciovými tituly. In: *Bezpečnostní teorie a praxe*. 2015, No. 3, p. 77-92.

Trust is regulated in sec. 1448 et seq. of act No. 89/2014 Coll., the Civil Code. The provision in subject states that the trust is formed by a separation of assets from the property of founder in a way that such person assigns these assets to a trustee for specific purpose through contract or for the event of death, while the trustee undertakes to keep and manage such assets. By the establishment of such trust, separate and independent ownership of separated assets is formed and the trustee is obliged to take over these assets and manage them. The trustee executes ownership rights to assets in such trust on his own behalf and on the account of the trust; However, assets in this trust do not form any ownership of the trustee, nor of the founder, nor of any person that should be the beneficiary from such trust.¹ Therefore, the privacy of beneficiaries of the trust is fully protected in legal way by such trustee. None of the persons own the assets in such trust and the founder and beneficiaries may remain anonymous for the public.

Foreign asset management – the owner concludes an agreement on the execution of shareholding rights with a business corporation, having its registered seat in the Czech Republic, acting as a formal owner while not even the public authorities are aware of the ownership structure. Legal order allows to agree on the management of foreign assets, whose subject are shares managed by a trustee, including the execution of shareholding rights on his own behalf while on the account of other person. Specification of the foreign asset management is regulated by sec. 1400, par. 1 of act No. 89/2012 Coll., the Civil Code, according to which “Any person, the asset management is assigned to while such assets do not belong to such person, executes it for the benefit of any other person (beneficiary), shall be the trustee of foreign assets”. In number of countries, this service is performed traditionally by attorneys, banks or advisory companies. The result of foreign asset management is a more complicated search for the ultimate beneficial owner of company shares in the event the trustee is bound by confidentiality in relation to the identity of owner of such managed assets.

Foreign partner – harder identification may also result from the fact when any foreign entity is the shareholder. If the shareholder is a foreign company from a country whose legal system and authorities do not allow to search for the identity of the owner, then the replacement of bearer shares for registered shares owned by a foreign company do not result in higher transparency of a shareholding structure, only the non-transparency is improved by one level higher. An international structure is formed in this way, being compliant with Czech law (Czech law recognizes foreign entities as shareholders of Czech companies). In the Czech Republic, number of companies are focused on the offer of so-called ready-made companies, established in offshore jurisdiction, offering number of advantages (confidentiality of all trading information, protection of assets, low or zero income tax, no inheritance, nor gift tax, protection against inflation, access to North American and European capital markets, missing requirements of tax declaration, missing limitation for international trade etc.)

¹ See sec. 1448 et seq. of act No. 89/2014 Coll., the Civil Code.

Equity Certificate and its transfer

The equity certificate is a type of security¹ regulated by act No. 90/2012 Coll., on Business Corporations and Cooperatives (the Act on Business Corporations), hereinafter referred to only as the “ABC”. With effect from January 1, 2014, the possibility of limited liability companies to issue an equity certificate for the share of partner is implemented. In sec. 137, there’s stated that the share of a partner may be represented by such equity certificate if it’s stated in the memorandum of association. Equity certificate may be issued only for such share, whose transferability is not limited or is not conditional in any way. Equity certificate is a security to order. Equity certificate may not be issued as a registered security and may not be traded on a public market.

Pursuant to sec. 137 par. 3 ABC, equity certificate is a security to order. The ownership right thereto is transferred by endorsement (conditions are specified in act No. 191/1950 Coll. the Exchange and Cheque Act), by agreement (concluded in a voluntary form, even orally) and by its handover to the recipient for the moment of handover (sec. 1103 par. 2 of the Civil Code). By the acquisition of an equity certificate, the recipient becomes a party to the memorandum of association. Notification about the change of partner and the submission of an equity certificate to the company (sec. 10 par. 1 ABC) is required for the transfer to become effective in relation to the company. For the proof of change of partner, the company (executive officer) is obliged to record this change into the list of partners (sec. 139 par. 4 ABC) without delay. Unless the recipient submits such equity certificate to the company, the company may not count on him as with a partner and such recipient faces the risks then, like e.g. not being invited to a general meeting or that he won’t be addressed by a proposal for decision to be made, but also not allowing him to participate on general meeting or that his decisions as of the sole partner shall not come into effect.²

The transfer of equity certificate comes into force at the moment of proper preparation of endorsement and notification of change in the partner with the submission of equity certificate of company. Without the notification of change in partner and submission of an equity certificate, such transfer of equity certificate shall not be effective for the company.

Missing notification on the transfer of above-mentioned security is not related to the sanction of invalidity. In fact, from the above-mentioned, it does not have to be detectable who is the owner of equity certificate at the moment of transfer of such equity certificate, so who is the corporation partner. The identity of owner won’t be revealed by the time of notification of company transfer and the owner of a share/equity certificate won’t be identifiable even in the commercial registry by the time such change is made in the mentioned registry through the action of company executive officer.

¹ Pursuant to sec. 514 act No. 89/2012 Coll., the Civil Code, security is a paper document, a legal right is related thereto in a way that after the issue of such security such right may not be applied, nor transferred.

² See. https://www.nkcr.cz.>detail>39_248-k (Equity certificate – some experiences from practice – Notarial Chamber), see also <https://www.epravo.cz/top/clanky/kmenovy-list-jako-cesta-k-anonymizaci-sro-95025.html>

Nominee

An illegal way how to achieve anonymisation of respective ownership structure is the fictitious ownership of shares by nominees, i.e. by frontmen. If the reason for such manner is to avoid responsibility or harm to the rights of third parties, such acting may be sanctioned by criminal law in principle.¹

Legal measures, solutions in the Czech Republic

One of the tools how to control this activity is the elimination of instruments, so the reduction of space where unwanted manipulations may occur. The obligations of legal entities, given by respective laws related to unhiding proprietary structure, e.g. some measures against the legalization of incomes from criminal activities or the obligations of the ordering authority in the area of public tenders may be the evidence (see below). Then, in other areas, the treatment of this condition is very vague, e.g. in case of application for donation, where it's left up to the applicant in a form of sworn affidavit.

Report on relations between interconnected entities is an institute, established on the basis of act No. 90/2012 Coll., on Business Corporates, that sets up the obligation of controlling business entity to prepare and publish the report on relations between it and the entities related thereto. It puts emphasis on the comprehensive image on the status of controlled entity within the structure of a group of interconnected entities. Report on relations form an integral annex to the annual report under accounting regulations. For the preparation of report on relations, the statutory body of controlled entity shall be held responsible and shall prepare it in 3 months from the end of respective accounting period (sec. 82, par.1 ABC).

¹ Resolution of the Municipal Court in Prague from May 6, 2015, Criminal liability of the so-called "frontman," file No./No. p.: 5 To 159/2015- "cooperation of person, who borrows his identity and name to be used for the acquisition of rights and obligations, he/she in fact is not willing to execute or he/she executes them in a role of voluntary puppet, necessarily and openly to any possibility, is considered as criminal, unless – inter alia, he/she may fulfil the obligations of an executive officer as a result of e.g. voluntary omission of the criminal – thus a defective activity is performed, meeting the body of the offense of certain proprietary or economic crime. Criminal of this kind, as the so-called frontman, becomes open to any possibilities wilfully and in this way, he/she is at least aware of the conditions and real possibilities completely that he/she is becoming a part of illegal situation or activity that does not have to be finished by its achievement, into a, in fact, non-performed title of an executive officer or into a role of a "blind" signing person of translated documents, but within a logic of such initiated events, he/she will go even further, exceeding the limits of fair and legal, potentially even to the criminal area. In the event of such acting of persons, providing themselves for a fictitious execution of responsible functions of executive officers of corporates it's a very negative, condemnable phenomenon from the perspective of general full-social interests, as the acting of offenders of this kind clearly contributes to the committing of proprietary, economic and other criminal activity while it would not occur otherwise. Besides this, typically the offender of this kind hides the identity of real, hidden persons or organizers of respective criminal activity by his own identity or by his nomination for the interests of persons hidden, while assisting in their non-criminal nature, what can be considered as a burden of its kind."

In the report on relations, pursuant to sec. 82, par. 2 ABC, the responsible statutory body shall specify, in particular, the structure of relationship between the entities; description of the role of controlled entity; what tools are used within this relationship and the manner of control; negotiations on property whose value exceeds 10 % of the equity of controlled entity, if there are instructions applied or if it's in the interest of controlling entity or an overview of concluded agreements between the entity controlled and controlling, all for the previous accounting period. Less important part of the report on relationship is also the specification of advantages and disadvantages based on the mutual relationships of entities. In the event the statutory body has no necessary information for a proper preparation, statutory body shall mention this fact in the report with respective explanation. If the controlled entity has a controlling body established, this body shall check the veracity of report on relationship.

Evidence of data about the beneficial owners was introduced by the amendment of act No. 386/2016 Coll., amending the act No. 304/2013 Coll., on Public Registries with the effect from January 1, 2018. In sec. 118b par. 1 it's stated that the evidence of data is implemented on the beneficial owner of entity, registered in a public registry under this act and on any trust registered in the evidence of trusts under this act, meaning the beneficial owner under act No.253/2008 Coll., on Certain Measures against Legalisation of Incomes from Criminal Activity and Financing¹ (hereinafter

¹ Act No. 253/2008 Coll. sec. 4 par. 4 – for the purposes of this act, the **beneficial owner** shall mean any natural person that has de facto or de iure the possibility to execute decisive influence in a legal entity, trust or any other legal form without legal capacity. It shall be considered that under meeting conditions set in the first sentence, the beneficial owner is the following

- a) natural person in case of business corporation,
 1. that owns, alone or together with persons acting in consensus with it, over 25 % of voting rights of this business corporation or has a share at the equity exceeding 25 %,
 2. that alone or together with persons acting in consensus with it, controls the entity specified in the point 1,
 3. that shall be the recipient of at least 25 % of profit form this business corporation, or
 4. that is the member of a statutory body, representative of a legal entity in this body or in a position similar to the position of a statutory body, if such beneficial owner is not or may not be determined according to the points 1 to 3, b) at association, public benefit organisation, homeowner associations, church, religious organisation or of any other legal entity under the act regulating the status of churches and religious organisations, such natural person,
 1. that owns more than 25 % of its voting rights,
 2. that shall be the recipient of at least 25 % from distributed funds, or
 3. that is a member of statutory body, representative of entity in this body or in a position similar to the position of a member of a statutory body, unless it's the beneficial owner or can be determined according to point 1 or 2,
- c) in case of foundation, institution, endowment fund, trust or any other legal form without legal capacity, the natural person or beneficial owner of a legal entity that has one of the following statuses
 1. founder,
 2. trustee,
 3. beneficiary,

referred to only as the “evidence of beneficial owners”). According to sec. 118f, following data shall be held in the evidence about beneficial owners:

- a) name and residence address or also the permanent residence in the event it's different from the residence,
- b) date of birth and birth certificate number, if assigned thereto,
- c) citizenship and
- d) data about the following
 1. share on voting rights if the status of beneficiary is based on his direct participation in the entity,
 2. share on distributed funds, if the status of beneficiary is based on the fact that he is the recipient of such funds, or
 3. other fact, if the status of beneficiary is set in a different way.

Besides the registry courts, record in the evidence of beneficiaries could be performed on the basis of registry proceedings, initiated by the submission of individuals/entities, also by a notary on the basis of a notary record. The data about ultimate beneficiary won't be available to general public by now, but will be available (pursuant sec. 118g par. 3) from a) to m) to the authorities, specified in this provision.

Entities will provide actual data for the determination and verification of identity of their ultimate beneficiary, including the data confirming these facts. The data for identity determination and verification of ultimate beneficial owner will be stored for the entire period of time, during which the person in subject remains the ultimate beneficial owner, and following 10 years after the termination of such relationship.

In these days, neither the act No. 304/2013 Coll., on Public Registries, nor any other act does specify direct sanctions for a non-execution of record of ultimate beneficiary. Adverse consequences related to non-performance of such obligation may be specified to the entity from other regulations. This is the sec. 15 of act No. 253/2008 Coll., on Certain Measures against the Legalisation of Incomes from Criminal Activities and Financing of Terrorism, as amended, where the obliged person refuses to execute a trade or to initiate a business relationship or terminates the business relationship

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4. persons, in whose interest the foundation, institution, endowment fund, trust or any other legal form without legal capacity was established or operates, if the beneficiary is not set, and
 5. persons authorized to perform supervision over the administration of foundation, institution, endowment fund, trust or any other legal form without legal capacity.

¹ **Act No. 304/2013 Coll., sec 118f** – following data about the beneficial owner is recorded in the evidence of beneficial owners

- a) name and residence address or also the permanent residence in the event it's different from the residence,
- b) date of birth and birth certificate number, if assigned thereto,
- c) citizenship and
- d) data about the following
 1. share on voting rights if the status of beneficiary is based on his direct participation in the entity,
 2. share on distributed funds, if the status of beneficiary is based on the fact that he is the recipient of such funds, or
 3. other fact, if the status of beneficiary is set in a different way.

if the client does not meet his/her requirements related to the establishment of its ultimate beneficial owner; according to sec. 122 of act No. 134/2016, on Public Tender, as amended, the contracting authority shall exempt the participant of such tender proceeding also in case of not meeting the requirement related to the establishment of its ultimate beneficial owner, and also according to sec. 177 of act No. 182/2006 Coll., on Insolvency and the Manners of its Solution (the Insolvency Act), as amended, the creditor, that has not met its obligation related to the establishment of its ultimate beneficiary well, may not execute voting rights related to the receivable.

Determination of ultimate beneficial owner by obliged persons. On November 14, 2016, the act No. 253/2008 Coll. on Certain Measures against the Legalisation of Incomes from Criminal Activity and Terrorism Financing was amended by the declaration of act No. 368/2016 Coll., the act No. Inter alia, by the mentioned amendment, also the definition of ultimate beneficial owner was amended (sec. 4 par. 4 of the act No. 253/2008 Coll., having a significant impact for obliged persons related to the determination of ultimate beneficial owner. The beneficial owner shall be such natural person that has a decisive impact on company control or who controls such company. In the provision in subject, it's stated that in case there is no person meeting the material aspects of property, set by law (having available over 25 % of voting rights or having a share on equity over 25 % or controlling such persons or being a recipient of at least 25 % of profit), the members of statutory body are considered as the beneficial owners, while in the event if any legal entity is a member of statutory body, then its representative or person in similar status as a member of the statutory body.

An important change occurred in the approach for the determination of beneficial owner. In the event the legal entity does not meet the obligations, given by law (being aware of its beneficial owner and to provide cooperation to an obliged person during its finding), the obliged person may not conclude a business relationship or perform any trade with legal entity. In practice, the most appropriate and most frequent way how to find the beneficial owner is a form of declaration of person authorized to act on behalf of a legal entity with the provision of documents, proving such statement.

Obligation of contracting authority to identify ultimate beneficial owners of public tender supplier is set by the provision of sec. 122, par. 4 and 5 of act No. 134/2016 Coll., on Public Tenders. According to sec. 122, par. 4, contracting authority is obliged to determine the data at the selected supplier, if it's a legal entity, about its ultimate beneficial owner according to act No. 253/2008 Coll., on Certain Measures against the Legalisation of Incomes from Criminal Activity and Terrorism Financing, from the data evidence about ultimate beneficial owners pursuant to act No. 304/2013 Coll., (Section five - sec. 118f – 118j), specifying public registries of legal entities and individuals. Found data¹ (according to sec. 118f) shall be specified in the documentation of a public tender by contracting authority.

¹ **Act. No. 304/2013 Coll., sec. 118f** – following is recorded in the evidence of beneficial owners

- a) name and address of the place of residence or also permanent residence, if it's different from the place of residence,
- b) birth date and birth certificate number, if assigned,
- c) citizenship and
- d) data about the following

If the data about ultimate beneficial owner can't be found in the evidence of data about the beneficial owners, contracting authority (according to sec. 46 par. 1 act No. 134/2016 Coll.) shall request selected supplier to submit an extract from evidence, similar to the evidence about data about beneficial owners, or

- a) to provide identification data about each person that is a beneficial owner, and
- b) to submit documents, proving the relation of all persons according to a) to the supplier; these documents are, in particular
 1. extract from the commercial registry or any other similar evidence,
 2. list of shareholders,
 3. decision of statutory body about the payment of profit share,
 4. memorandum, articles of association or bylaws.

Participant of tender proceeding, who has not submitted the data and documents about the beneficial owner, shall be excluded from the public tender offer process.

Conclusion

On the basis of analyses of external demonstrations of illegal and illegitimate activities of economic nature, we may state that over the last decades, significant qualitative transformational changes could be seen. These changes are characteristic by the formation of parallel economy, where we can observe two lines.

In the first case, there's a parallel economy, formed by standard organized criminal groups, where the ground for such phenomenon are the adopted measures against organized crime (e.g. measures against legalisation of incomes from criminal activities) while the reason is then e.g. reduction of risk during the utilization and capitalization of incomes from criminal activities.

Second case includes the creation of influencing client and power-entrepreneur networks as it's defined by the Security Intelligence Service in one of its annual reports. Main actors here are the so-called lobbyists, controversial managers, controversial entrepreneurs, controversial politicians at both, communal or national level. These subjects are trying to gain unauthorized benefit by manipulation and control of the markets. When generating incomes from criminal activities, they hide their participation on this process.

The example may be a hidden control of corporates, whose management commits illegal activities or transfers illegally gained funds into the areas where public authorities lose their control of these funds. Such transfer is then executed in a way so the controlling persons could not be connected to these activities and the fact that they are the beneficial owners is not clear.¹

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1. share on voting rights if the status of beneficiary is based on his direct participation in the entity,
 2. share on distributed funds, if the status of beneficiary owner is based on the fact that he is the recipient of such funds, or
 3. other fact, if the status of beneficiary is set in a different way.

¹ BUDKA, Ivan; DVOŘÁK, Vratislav; ŠLESINGER, René. *Využití právních nástrojů pro potírání organizovaného zločinu*. Praha: Institut pro kriminologii a sociální prevenci, 2017, p. 101. ISBN 978-80-7338-169-1.

Methods and instruments, the criminals use to achieve their criminal business, are the different ways of anonymisation. With regard to the fact that indicators signaling non-standard activity (e.g. anonymous trades, anonymisation of owner, non-transparent ownership structure of company) and that may signalize also the commitment of criminal activities, it would be appropriate to create an information system, providing evidence of indicators in subject.

Anonymisation of assets is a complicated issue. It may represent threat, in particular in a form of making the criminal activity easier, hiding the conflict of interest and legalisation of incomes from criminal activity. On this basis, it's important that the public authorities have the instruments and legal authorizations available for the uncovering of ownership structures of business corporates and to reveal the beneficial owner.

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R E S U M É

Článek tematizuje postupy tzv. moderního organizovaného zločinu při legálním či nelegálním nabývání majetku a jeho anonymizaci. Poukazuje na možnosti skrývání takového majetku a zastírání struktur skutečných vlastníků obchodních společností. V závěru popisuje opatření, která jsou přijímána v souvislosti se zjišťováním skutečného majitele v České republice. Článek vychází ze studie výzkumného úkolu Institutu pro kriminologii a sociální prevenci. „Organizovaný zločin na území České republiky – vývoj, možné kriminogenní faktory, vybrané aktivity a právní nástroje postihu“.

Klíčová slova: Moderní organizovaný zločin, anonymizace majetku, skutečný majitel.

S U M M A R Y

This article focuses on the procedures of a so-called modern organized crime in case of legal or illegal acquisition of assets and their anonymisation. It points to the possibility of hiding such assets and to make the structures of beneficial owners of business corporates non-transparent. In the conclusion, it describes the measures adopted in connection to the definition of beneficial owner in the Czech Republic. This article is based on the study of research task from the Institute for Criminology and Social Prevention “Organized crime within the territory of the Czech Republic – development, potential criminological factors, selected activities and legal instruments of sanctions”.

Keywords: Modern organized crime, anonymisation of assets, real owner.