

UDC 343.211

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Cooperation of Law Enforcement Agencies in Prevention and Detecting Transnational Crimes

У статті розглянуто питання співпраці правоохоронних органів щодо профілактики та протидії транснаціональним злочинам. Приділено окрему увагу міжнародно-правовому регулюванню взаємодії правоохоронних органів різних країн. Проаналізовано поняття транснаціональних злочинів. Розглянуто особливості діяльності Інтерполу та процедуру здійснення екстрадиції.

Ключові слова: правоохоронні органи, попередження та протидія злочинам, транснаціональні злочини, екстрадиція, Інтерпол.

В статье рассмотрены вопросы сотрудничества правоохранительных органов по профилактике и противодействию транснациональным преступлениям. Отдельное внимание уделено международно-правовому регулированию взаимодействия правоохранительных органов разных стран. Проанализировано понятие транснациональных преступлений. Рассмотрены особенности деятельности Интерполу и процедуру экстрадиции.

Ключевые слова: правоохранительные органы, предупреждение и противодействие преступлениям, транснациональные преступления, экстрадиция, Интерпол.

The article is devoted to the problem of co-operation of law enforcement agencies in prevention and detecting of transnational crimes. Special attention is paid to the problem of increasing levels of crime being committed with trespassing borders, by different perpetrators of different citizenships, with conducting the criminal contacts between different countries. The definitions of transnational crimes were analysed in detail. The main analysis focuses on international legal regulations of co-operation of law enforcement agencies in preventing and detecting transnational crimes. Also detailed is the UN Convention against Transnational Organized Crime. This pays attention to forms of international co-operation between the countries, based on international agreement; and based on participation in governmental organisations. The tasks of Interpol were analysed.

The author pays special attention to forms of co-operation of law enforcement agencies in detecting transnational crimes, such as extradition procedures. Analysing the legal regulation of extradition involves considering a number of international conventions and agreements.

The article also mentions the cases which should exist if a country requesting the release of a wanted person who is detained in another country may be extradited. It is mentioned that unfortunately the process of extraditing may influence political and social situations between the countries. For example, countries which are in a tense political or diplomatic situation may face a more drawn out process, one country may officially not refuse the extradition, but practically do everything to avoid it.

Keywords: crimes, transnational crimes, international legal regulation, law enforcement agency, law enforcement co-operation, Interpol, extradition, prevention and detecting the transnational crimes.

Issue. Nowadays it is well known that life, health of humans and liberties are the main values and are proclaimed in the Universal Declaration of Human Rights [1] which was first proclaimed in 1948. This became the basis for constitutional law for most countries in the world. Proper protection of these rights is the priority for law enforcement agencies of each country. Each government and other local authorities are trying to protect these rights not only in the territory of their state, but also are working on creating effective international co-operation relationships in the law enforcement sphere to avoid any criminal actions going unpunished.

The development of society and international relations create the development of new forms of criminal actions. New forms of crime have been identified, which are proclaimed as especially harmful, such as transnational crimes.

Ukraine has signed numerous international agreements which regulate the relationship between law enforcement agencies in the sphere of prevention, and the detection of crimes. The most important one is the UN Convention against Transnational Organized Crime 2000 [2]. There are three Protocols within this Convention: one against human trafficking, another against human smuggling, and one against trafficking in firearms [2].

Analysis of recent research and publications. Nowadays the problem of effective co-operation of law enforcement agencies in prevention and detecting transnational crimes were the subject of scientific research by T. Seroyd; B. Kuzniak; O. Bandurka; A. Voytsichovski; M. Kachynska; K. Levchenko; L. Kelly; M. Bouromenski; E. Nuroulayev and others.

Previous unsolved problems. The intention of Ukraine to join the EU, as well as the waiving of visas for Ukrainians to enter the EU, has resulted in a new wave of migrants to the EU, which has encouraged transnational organised crime, including human trafficking. This is why research on co-operation of law enforcement agencies in preventing and detecting national crimes is so important.

The leading role of law enforcement activity between governmental agencies in this sphere is paid to the National police of Ukraine. The main task of the Ukrainian police is to provide police services in the following spheres:

1) Maintaining public order and safety.

2) Protection of human rights and liberties, also interests of society and the state.

3) Crime prevention.

4) Providing assistance, in the limits specified by law, to persons who for personal, economic, social reasons or as a result of emergencies, need such assistance.

Legal regulation of co-operation between law enforcement agencies of Ukraine are based on such international agreements as: the European Convention on Mutual Assistance in Criminal Matters, 1959 [3] Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, 2000 [4]; Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases, 1993 [5]; Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse, 2007 [6]; Council of Europe Convention on Action against Trafficking in Human Beings, 2005 [7]; ILO Convention No. 182 on the worst forms of child labour, 1999 [8]; ILO Forced Labour Convention, 1930 [9].

Nowadays a lot of criminal actions have become transnational. This kind of crime can occur in different spheres of human activity, such as cybercrime, human smuggling, drug trafficking, firearms and hazardous material trafficking, and human trafficking (including child trafficking) and others. As defined in the UN Convention against Transnational Organized Crime, an offence is transnational if: (a) It is committed in more than one State; (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) It is committed in one State but has substantial effects in another State [2].

The co-operation between law enforcement agencies can be conducted based on international agreements with two or more sides, but also through membership of an organisation. One such organisation is INTERPOL (International Criminal Police Organization), which is the second largest organisation in the world based on country membership after the UN.

Interpol works to ensure that police around the world have access to the tools and services necessary to do their jobs effectively. It provides targeted training, expert investigative support,

relevant data and secure communications channels. This combined framework helps police on the ground understand crime trends, analyse information, conduct operations and, ultimately, arrest as many criminals as possible. Interpol aims to facilitate international police cooperation even where diplomatic relations do not exist between particular countries. Action is taken within the limits of existing laws in different countries and in the spirit of the Universal Declaration of Human Rights [10].

One of the tasks of Interpol employees is to oversee the extradition procedure. The term "extradition" came from the Latin words "ex", which means from the outside and "tradition" (tradere) - to enter, subdue, issue and signify the way of acquiring ownership - the transfer of possession of an object with the intent to establish ownership of another person [11, p.450]. Extradition is the formal process where one country asks another to return a person in order to stand trial or to serve a sentence [12]. Interpol police officer to seek the location and arrest of wanted persons with a view to extradition or similar lawful action used notices [13]. An Interpol Red Notice is an international "lookout" and is the closest instrument to an international arrest warrant [14].

The proses of extradition between Ukraine and other countries are based on: European Convention on Extradition of Offenders, 1957 [15]; Additional Protocol to the European Convention on the Extradition of Offenders, 1957 [16]; Second Additional Protocol to the European Convention on Extradition of Offenders, 1978 [17], etc.

The extradition procedure is based on bilateral agreements between Ukraine and the responding country. Moreover, extradition and other law enforcement activity of officials of Ukraine with the law enforcement agencies of the responding country is regulated by such agreements as: The Republic of Estonia and the Ukraine Agreement on legal assistance and legal relationship in civil, family and criminal matters, 1995; The Republic of Latvia and Ukraine on legal assistance and legal relations in civil, family, labour and criminal matters, 1995; The Republic of Latvia and the Ukraine on cooperation in the field of social security, 1998; The Government of the Republic of Latvia and the Government of Ukraine on employment and social protection of permanent residents of Latvia and Ukraine in the territory of the other contracting party; The Republic of Lithuania and Ukraine on legal assistance and

legal relations in civil, family and criminal cases, 1994; The Czech Republic and Ukraine on legal assistance in civil cases, 2001 [18].

Ukrainian law enforcement agency can announce a person to an international criminal search through the Interpol in such cases:

- persons who have left the state border of Ukraine and evade criminal responsibility and punishment for a crime for which, in accordance with the current legislation or a court verdict which has become legally valid, there is provided for a penalty of imprisonment for a term of not less than 6 months;
- missing citizens, in the presence of relevant information about the departure of persons abroad;
- foreigners and stateless persons staying on the territory of Ukraine and for which information is received about the commission of crimes in the territory of other states [19].

It should be remembered that a country requesting the release of a wanted person who is detained in another country may be extradited in cases where:

- 1) the requested party may refuse to extradite the person concerned for an offence which, under its law, is considered to be committed in whole or in part in its territory or in a place treated as its territory;
- 2) extradition is not affected if the person concerned, in accordance with the law of the requesting or requested party, is not subject to prosecution or punishment in connection with the expiration of the limitation period
- 3) if the offence for which extradition is requested is punishable by the death penalty in accordance with the law of the requesting party and if the law of the requested party does not provide for the death penalty for the same offense or it is generally not executed, extradition may be refused if the requesting Party does not provide the requested Party has sufficient guarantees that the death penalty will not be enforced and others. Thus, the interaction of law enforcement bodies of Ukraine in general and the bodies of the National Police, in particular with foreign organizations, is extremely important and necessary for the proper implementation of the current legislation and the provision of high-quality police services [15].

In conclusion, the existence of such institutions of extradition, as a form of co-operation of law enforcement agencies in prevention and detecting transnational crimes, gives the possibility to provide justice. Persons who commit crime and try

to escape abroad as a way to avoid punishment will be caught and put before the court. However, the process of extradition is complicated and long, which is based on numerous agreements and Conventions. In cases where the demanding and receiving country do not have previously signed agreements, they may start a negotiation on this topic or use the 1957 European Convention for extraditing offenders. This Convention puts basic regulations which both parties can use in the exchange process, and is also used as the basis for agreement between them.

Unfortunately, this process may influence political and social situations between the countries.

For example, countries which are in a tense political or diplomatic situation may face a more drawn out process, one country may officially not refuse the extradition, but practically do everything to avoid it.

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