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Ю.П.Конопченко (3 курс, ЮФ), А.М.Слуцкая, ст. преп.

## ЭКСТРАДИЦИЯ КАК ПРАВОВОЙ ИНСТИТУТ В БОРЬБЕ С МЕЖДУНАРОДНОЙ ОРГАНИЗОВАННОЙ ПРЕСТУПНОСТЬЮ

Present day threats to national and international security come not from the build up of military arsenals, as during the times of Cold War. Increasingly, they tend to come from the non-state actors, such as organized criminal groups that undermine social stability, and challenge state sovereignty worldwide. Organized criminal structures tend to exploit the weaknesses of judicial systems and law enforcement, and political and economic instabilities. They benefit from the modern-day phenomena, such as globalization, technological advances, and an increasingly border-free world. Through production and trafficking in drugs, trafficking in women and children for forced labor and sexual exploitation, as well as trafficking in firearms, they generate violence and launder huge sums of money. Through corruption and abuse of power, their criminal activities undermine democratic values of countries, as well as their economic and financial institutions and of course the most dangerous display of transnational organized crime (TOC) nowadays is an international terrorism.

Nowadays, there is no country immune to transnational organized crime, but countries in political and economic transition with outdated or not yet fully-developed judicial and law enforcement systems fall prey to the TOC before others. The newly established democracies of the Central and Eastern Europe are especially vulnerable to the activities of the criminal organizations, as they are in the process of building their democratic institutions. Russia and other member-states of the Community of independent states (CIS) are also in this list.

There is a large number of instruments designed to combat transnational organized crime. They vary in forms, and range from micro-level - involving cooperation between the “individual police forces working together to deal with trans-border crimes,” - to mezzo, and to macro – which is “concerned with intergovernmental contracts, whether formal or informal” [1].

Extradition represents one of the most important instruments in combating transnational organized crime. Agreements on extradition allow sovereign states to transfer “fugitives charged with an extraditable offence and sought for trial, or already convicted and sought for punishment” [2]. It can be seen as one of the many fields of cooperation in criminal justice matters between the countries in order “to stop fugitives using borders as a means of escaping justice” [1]. Therefore, extradition is a way to assist states in prosecuting violators of domestic criminal codes, thereby linking the domestic and international criminal laws enforcement.

It has always been common for criminals to escape abroad in the countries where lack of legislation or lack of law enforcement ensured safe havens. Also, today, it is not necessary to be present in a country to commit a crime that violates its laws. Agreements on extradition ensure that these actions are not left unpunished, preventing TOC from spreading to other countries. With regard to the form of the arrangement, they range from multilateral regional agreements on the one hand, and to ad hoc bilateral agreements on the other. They provide legal foundation for action against organized criminals at the judicial level.

The European arrangements regarding extradition are usually based on bilateral or multilateral treaties between the states. However, sometimes they contain such provision according to which the requesting state uses the asylum state’s domestic extradition legislation. As of today, the bilateral treaties constitute the bulk of the extradition arrangements, as they give an opportunity to create an agreement that suits both parties best. Extradition laws are also affected by the way the states regard

particular treaties. Some countries prefer to view them as self-executing, while others require that the domestic legislation to be passed in order to implement them.

While “a universal multilateral convention open for any state in the world is an impractical dream” due to numerous differences between the municipal judicial systems, “regional conventions have proved popular” [1] They provide a good overall framework for the bilateral and multilateral regional arrangements on extradition. Even before the EU began to address the issue in the format of its treaties and conventions, Europe already had the most extensive series of regional agreements on extradition, and on mutual assistance in criminal matters in general.

The example of the most successful regional convention on extradition, in terms of being the context for the largest number of similar treaties, and in terms of “accounting for more extraditions than any other,” [3] is the European Convention on Extradition of 1957 created by the Council of Europe. Already by the end of 2004 forty-five states had ratified it. Russia being among them in 2000, but made certain reservations.

Besides a number of bilateral agreements there are some instruments on extradition provided for in the framework of the European Union’s ‘third pillar,’ or its provision on Justice and Home Affairs of the Treaty on European Union signed at Maastricht in 1991. It was later amended by the Amsterdam treaty of 1997 that “aimed to ‘establish the European Union as an area of freedom, security and justice’” [4]. The JHA pillar ensures a new scope for the establishment of closer intergovernmental cooperation between police forces and customs, directly and through Europol, closer cooperation between national judicial authorities, as well as general harmonization of rules on criminal matters [5]. In the area of judicial cooperation it is also set to provide cooperation related to extradition.

Nevertheless, extradition not only merely provides the means of handing over criminals for prosecution, but it is also a way of protecting individual’s rights. As compared to the alternative methods of dealing with international criminals, such as deportation, “extradition itself is an element in the international protection of human rights” [1]. It is capable of safeguarding the fugitive from oppressive punishment or from persecution on account of his personal characteristics, beliefs or opinions. That explains the provision of the European Convention on Extradition of 1957 not to extradite individuals to the countries with death penalty laws. Since extradition laws represent the whole section of International Criminal Law on their own, I will concentrate on the first and the main purpose of the extradition arrangements, which is the return of fugitives in order to bring them to justice under the competent municipal authorities.

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