

# Some Issues of International Cooperation in Criminal Cases

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**Abstract:** In this article, disclosed extradition issues of criminals. In particular, it is analyzed the issues in the application of national laws relating to international cooperation in criminal cases. Moreover, it is noted that the necessity of improving of mechanism of international cooperation in criminal cases that is important to develop of the national legal bases too. In national legislation noted the priority of international law over the provisions in the national legislation. Results showed that the international nature of organized crime requires the urgent conception of new and effective cooperation agreements on a more comprehensive basis. There are some suggestions and recommendations to improve the mechanism in this area.

**Keywords:** international law, national law, extradition, mutual legal assistance, international cooperation, transnational crime.

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## Introduction

International law as a body of norms and principles, which is regulating the cooperation of states in combating international crime, focusing on maintaining law and order. In turn, law and order can be maintained while ensuring the certainty of punishment for the crime. The problem of cross-border crime presents a threat to individual states and the entire world community. The lack of adequate legal cooperation between states leads to the emergence and spread of dangerous practices when criminals committing the crime in one state, hiding from responsibility in the territory of another state. The problem of extradition of criminals is one of the most complex institute in international law, because it directly affects the sovereignty of the concerned states, the interests of their various departments, can take a long period of time, etc. The considered institute provides the certainty of punishment, both at the international and at the national level.

## 2. Legal regulation of the international cooperation in criminal cases

Legal regulation of the international cooperation in criminal cases, which is appeared in ancient time, transformed into a full-fledged institute with a wide range of special principles, as well as of its constituent norms. Currently, the institute of extradition is continuing to develop. The researching works on extradition shows that, it should be assumed as it is at the junction of the international and internal law. In the modern conditions it is increased the number of norms of international law, as well as the number of norms of national

law (constitutional, criminal, criminal procedural) which is regulating the extradition of criminals.

Active development of this institute is explained by the increased growth of the importance of extradition on fighting against crime. Considering circumstance that the obligation of extradition arises only based on the relevant treaties and conventions, international legal regulation of extradition is attached an important issue.

The treaty as nearly not the main legal form determining the rights and duties of parties of the developed civil society, in principle source of the criminal law cannot be a source of the public law by the nature. In it cannot be a place to treaties of the state bodies with criminals although in the recent time of troubles and heard in the media addressed to the authority the statements of some politicians and mass media to "negotiate" with organized crime.

However, the treaty remains the main source of formation of the international criminal law. According to the article 2 of Vienna Convention on the Law of Treaties (1969), it means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation[1].

The last two types of legal acts are not recognized now as formal acts of legal justification for extradition, though at the time for the settlement of certain aspects of the extradition relations was used in a measure all these forms of legal acts, irrespective of their type name (Treaty, agreement, Convention, Protocol, etc.)[2]. As for the international

treaties that act as legal basis of extradition, they can be both bilateral and multilateral.

### 3. Discussion.

The extradition can be performed only concerning certain crimes, as a rule, the list or criteria of their determination (gravity of punishment, etc.) is established in the agreement. Traditionally the rule of "double criminality", crime which is requesting for making issue shall be followed, shall be recognized to that the legislation as requesting, and the required party. At the same time agreements provided conditions which allow to refuse an extradition. Mainly, reasonable suspicions of the required state that the person is pursued for political motives or that in case of issue it can be subjected to tortures or death penalty concern to them.

To achieve practical application of the principle of the certainty of punishment it is necessary to provide physical presence of the person who is involved in the criminal case at the hearing, that the action of the institute of extradition. It becomes obvious what an important role it plays in international law.

Similarly to the principle of honesty in international law has an important role in maintenance of friendly relations and cooperation among States, and the institution of extradition becomes fundamental significance to provide nature of integrity and completeness for international criminal law.

Considering the changing nature of crime, emergence of cross-border crimes, a possibility of criminals to hide in the territory of various states, the problem of crime constitutes danger to all world community. In these conditions, it is necessary to increase joining efforts of states and daily cooperation for fight against crime. The extradition is regulated by bilateral and multilateral agreements, which occupies a special place in this cooperation.

Important theoretical and practical significance represent new aspects in regulation of extradition in practice of the member states of the European Union with connection of the mechanism occurrence of the European arrest warrant, which promotes the modernization of the international system of cooperation in criminal cases. The specified researches came down to the analysis of historical aspects of formation of the institute of extradition, "idealization" of its principles, identification the rooted problems of the theory and practice of extradition without any proposals for their solution.

This approach was related to the fact that extradition has not undergone any reforms since its inception. At the end of the XX century, member states of the European Union (EU) made the first attempts to improve and simplify the extradition process, which resulted in the adoption in 2002 of the Framework decision on the European arrest warrant [3].

In foreign scientific literature on considered problem, there is a work of Michael Plachta - "European arrest warrant: Revolution in extradition?" [4]. In terms of what is happening in the modern world integration processes, the appearance of individuals have the possibility of free crossing of borders, the abolition of customs control between the States-members of integration associations, etc. created preconditions for development of cross-border crime. These circumstances call for the improvement and simplification of the procedure of extradition to combat international crime

Taking into account the international legal nature of extradition of criminals who committed a crime, there is a need for separate consideration of the international legal framework of this institute. In particular, reasonably is a special international attention to the issues of forming legal basis of the institution of extradition. It should be noted that currently, there are a number of conventions and bilateral treaties on extradition and mutual legal assistance in criminal cases [5].

In addition, in the legal literature [6], [7], [8], not without justification, transnational and national criminality is assessed as one of the most urgent problems of nowadays. Negative changes of qualitative and quantitative indicators of crime, increased criminal activity, threat of use of weapons of mass destruction, the existence the most modern technological devices, which ultimately causes a rather serious material and moral damage, requires States to radically reconsider the approach to combating crime. This, in turn, suggests a clear need for further expansion and improvement of international cooperation in criminal cases.

### 4. Conclusion

Based on such agreements, as a rule, the following issues are regulated:

- 1) Exchange of information about person who committed crime;
- 2) Exchange of information on preparing and committed crimes; assisting in the execution of court verdicts;
- 3) Implementation criminal proceedings to the citizens who suspected of committing crimes on the territory of another state, including its own citizens;
- 4) The investigation of persons for prosecuting;
- 5) Detention of person in order to provide extradition.

Improving of organizational and legal mechanism of cooperation of states in criminal cases it is important to develop of the national legal bases too. In national legislation it is noted the priority of international law over the provisions in the national legislation (i.e. It is mentioned in many legislative acts even in the event of conflict between international law norm and a norm of national law will be applied international law) [9].

This law is effective in many relations. However, concerning the issue of the relationship of international and national law, which is regulating the procedure of extradition, should be emphasized that the presence of statutory barriers (for example, if extradition is contrary to the state sovereignty and public order, etc.) may serve as a reason for refusing extradition. Even if there is a relevant bilateral agreement that is the norms of national law are more significant.

In conclusion, it should be noted that the rules of international and national law has a close interconnection and interaction, which is regulating the procedure of extradition of the criminals.

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### **Author Profile**

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