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ISSUES OF INTERNATIONAL COOPERATION OF THE PROSECUTORS' OFFICE OF THE REPUBLIC OF UZBEKISTAN IN THE FRAMEWORK OF INTERACTION WITH INTERNATIONAL ORGANIZATIONS

Abstract: the article focuses on the issues of international cooperation on provision of legal assistance in criminal sphere, such as extradition. Besides that, the article is dedicated to the matters concerning the cooperation of Prosecutor's Office in terms of fighting against crime with regional international organizations.

Keywords: international cooperation, legal assistance, criminal prosecution, extradition, regional organizations.

Аннотация: в статье рассмотрены вопросы международного сотрудничества органов прокуратуры по оказанию правовой помощи в уголовной сфере. Кроме этого, данная статья посвящена вопросам взаимодействия органов прокуратуры по борьбе с преступностью в рамках региональных международных организаций.

Ключевые слова: международное сотрудничество, правовая помощь, органы прокуратуры, региональные организации.

Аннотация: ушбу мақолада жиноятчиликка қарши кураш соҳасида прокуратура органларининг халқаро ҳамкорлиги ва иштироки масалалалари ёритилган. Шунингдек, мақолада шахсни жиноий жавобгарликка тортиш учун ушлаб беришнинг процессуал жиҳатларига ҳам тўхталиб ўтилган.

Калит сўзлар: халқаро ҳамкорлик, ҳуқуқий ёрдам, прокуратура органлари, минтақавий халқаро ташкилотлар.

Introduction. It should be noted that the annual increase in the volume of mutual legal assistance provided by the CIS (Commonwealth of Independent States) member states and the SCO (Shanghai Cooperation Organization) on criminal prosecution and extradition of individuals - is objective reality, a consequence of the expanding interaction of law enforcement agencies of the participating states of these organizations.

In addition, the active development of this area of cooperation in recent years, as well as the improvement of international legal norms and domestic legislation in the criminal process, objectively determine the urgent need to improve the institution of extradition, prosecution and other forms of legal assistance in criminal matters, and at the law enforcement level. It should be noted that the agreements of states on extradition are aimed at ensuring the inevitability of punishment of persons for whom there is evidence of their crimes [1].

The responsibility for carrying out extradition inspections for the uniform execution of laws is vested in territorial prosecutors, or rather senior assistants and assistant prosecutors on international legal issues in Tashkent, the Republic of Karakalpakstan and oblasts.

Upon receipt of a message from a supervised internal affairs body about the detention of a person sought by the competent authorities of a foreign country, the prosecutor or investigator of the prosecutor's office, having established his identity, fills in a 24-hour period from the mo-

ment of detention the list of the detainee's express interview in the prescribed form.

After that, the detainee gives a detailed explanation of the purpose of arrival in the Republic of Uzbekistan, the place, time of residence and registration, citizenship, presence or intention to receive asylum in connection with possible persecution in the country of citizenship on the basis of race, religion, citizenship, nationality, group or on political convictions, circumstances and motives of criminal prosecution or conviction in a foreign state, possible obstacles to its extradition. Also about the place of registration and residence at the time of entry into force of the Law "On Citizenship" of the Republic of Uzbekistan of July 2, 1992.

The legislator in art specifies circumstances that exclude extradition, according to Article 603 of the Criminal Procedural Code of the Republic of Uzbekistan. In the absence of data at the time of detention, excluding the extradition of the detainee, the prosecutor ensures the detention of such person for 72 hours.

According to the rules of the United Nations Convention against Transnational Organized Crime and a number of other international treaties of the Republic of Uzbekistan on extradition, when a person is detained in order to ensure his possible extradition, the requested party applies domestic legislation.

In this regard, in order to ensure the rights of detained persons of this category, the investigator or investigator prepares a protocol of detention in compliance with the requirements of the Criminal Procedural Code of the Republic of Uzbekistan.

When drawing up the record of detention, the person is explained the grounds for detention, the right to receive a copy of the protocol of detention, the right to give explanations on issues related to the extradition procedure, including in his native language or the language he owns, or refuse to give explanations.

In addition, the decision of the competent authority of a foreign state on sending a request for extradition, on taking into custody, or a verdict that has entered into force is communicated to the detained person's information.

The very concept of extradition of a person for criminal prosecution or execution of a sentence, representatives of legal science offer many definitions.

The most generalized of them, in my opinion, is formulated as follows: “Extradition is a form of socially necessary mutual assistance of states in implementing the extra-territorial action of their national criminal law systems, which, in the final analysis, meets the security interests of all the countries participating in it”.

The given definition, mostly, outlines the significance of the role of the institution of extradition for states of the world community from the point of view of international law. Recently, the problems of extradition in the legal literature have been given increased attention. These issues are constantly at the center of discussions of international organizations and various international forums. The development of the extradition institution is accompanied by the growing role of the court in resolving issues related to it.

In most countries, extradition matters are the responsibility of the executive branch. At the same time, a growing number of states are establishing judicial control in this area. Extradition procedures should be extremely short, but provided with convincing evidence and not contradict national legislation.

Now, we will discuss a few differences in the criminal procedural legislation of the CIS member states. The study of the judicial and investigative practice of the Republic of Uzbekistan leads to the conclusion that the reason for the courts' cancellation of decisions on extradition is incomplete observance of the conditions provided for in Art. 601 of the Code of Criminal Procedure of the Republic of Uzbekistan (and by the relevant international treaties) under which the Republic of Uzbekistan may extradite foreign citizens or stateless persons from abroad to prosecute or execute a sentence.

According to Article 601 of the Criminal Procedural Code of the Republic of Uzbekistan, a person may be extradited, in particular, when the foreign state that sent the request can guarantee that the person against whom the request for extradition is sent will be prosecuted only for the offense stated in the request and after the end of the trial And the serving of the punishment will be free to leave the territory of the given state, and also will not be sent, transferred, or given out to a third state without the consent of the Republic of Uzbekistan.

At the same time, in the criminal procedure legislation of a number of CIS member states, there are currently no standards that require issuing the above guarantees when sending requests for extradition.

Firstly, extradition procedures are becoming more flexible and wider in scope. Modern treaties no longer contain a limited list of extradition crimes; extradition has become possible for any serious crime.

Traditional restrictions are gradually losing their meaning.

Secondly, the need for more intensive and effective international cooperation requires the use, as already noted, of simplified extradition procedures.

On the theoretical side: in order to successfully solve the problem of international cooperation, it is necessary to improve legislation, take into account special factors, analyze the correlation of national and international norms in criminal proceedings.

Most often, we are talking about adjustments to the regulation of “exclusion of political crimes” from the field of extradition. In addition, a certain liberalization in the field of extradition in terms of some narrowing of discretionary opportunities to refuse extradition at the same time should be complemented by the strengthening of certain elements of protection of the rights granted.

In particular, this refers to the establishment of a tougher regime with regard to the complete prohibition of the extradition of persons in the presence of the death penalty, especially in connection with a change in the world community's approach to this punishment and the refusal to apply it in all cases.

It should also be noted that international legal instruments for extradition should be based on the modern development of international criminal law, taking into account the latest trends in its modernization.

In addition, in the criminal procedure legislation of a number of CIS states, other differences negatively affect the extradition process. For instance, in Georgia, Ukraine and Moldova, judges under existing criminal law can make decisions on the detention of a wanted person for only one month, which is obviously not enough to solve extradition issues in states that detained wanted persons.

Another difficulty is that the current criminal procedure legislation of some states, for example Ukraine, does not separately regulate the transfer of criminal prosecution from foreign competent institutions, therefore investigation of criminal cases that came from abroad is carried out only in accordance with the national criminal law -procedural

legislation. At the same time, when taking criminal prosecution from the competent authorities of the CIS member states, investigators sometimes violate the requirements of the Minsk Convention of January 22, 1993.

Practice shows that cases of inaccuracies in the translation of materials of criminal cases sent abroad into the language of the requested party, lack of translation of all case materials, improper assurance of investigative materials, including stamped seal, are not yet isolated. In some criminal cases, the terms of the investigation are extended without taking into account the time required to bring these cases to the law enforcement agencies of the requested state [2].

A significant problem remains the question of the timeliness of the sending of the person by the initiator of the search for the purpose of extradition for criminal prosecution. The inopportunement of the required documents by the state requesting extradition reduces the effectiveness of the interstate criminal investigation, forces time and resources to be used to organize a second search, which, as a rule, is ineffective.

Conclusions. In connection with the stated shortcomings of the application of the above provisions of the Minsk Convention by a number of CIS member states, it is expedient, in our opinion, to raise questions on improving the procedure for the exchange of information on the regional search databases for neighboring countries and on the inclusion in the Minsk Convention of January 22, 1993, country - initiated investigation of financial expenses for the maintenance of foreign nationals detained in the international wanted list, in the case of late submission of document required Comrade requesting party.

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НЕКОТОРЫЕ ВОПРОСЫ ФОРС-МАЖОРНЫХ ОБСТОЯТЕЛЬСТВ И ИХ ПРИМЕНЕНИЯ В МЕЖДУНАРОДНОМ АРБИТРАЖЕ

Аннотация: в статье рассмотрено понятие форс-мажора в законодательстве и практике различных стран, изучено научное понимание, международно-правовое регулирование, а также практика международных арбитражей по применению форс-мажора при разрешении споров.

Ключевые слова: форс-мажор, непреодолимая сила, договор, Венская конвенция, УНИДРУА, МТП, международный арбитраж.

Аннотация: мақолада турли мамлакатлар қонунчилиги ва амалиётида форс-мажор тушунчаси қўлланилиши, ушбу тушунчанинг илмий моҳияти, халқаро ҳуқуқий тартибга солиниши, шунингдек нихоларни хал этишда халқаро арбитраж амалиёти ўрганилган.

Ключевые слова: форс-мажор, енгиб бўлмайдиган куч, шартнома, Вена конвенцияси, УНИДРУА, ХСП, халыаро арбитраж.

Annotation: the article discusses the concept of force majeure in the legislation and practice of various countries, analyzes the scientific understanding, international legal regulation, as well as the practice of international arbitration on the use of force majeure in dispute resolution.

Keywords: force majeure, irresistible force, contract, Vienna Convention, UNIDROIT, ICC, international arbitration.

В международном и национальном праве существует понятие форс-мажор, которое также является неотъемлемой частью договоров или договорных отношений.

Форс-мажор является институтом освобождения от ответственности стороны, не исполнившей или ненадлежащим образом исполнившей свои договорные обязательства по причине объективных обстоятельств. Так, в странах СНГ данный институт именуется непреодолимой силой (чрезвычайным и непредотвратимым при данных условиях обстоятельством), в Великобритании и США – фрустрацией, во Франции – форс-мажором (событием, чрезвычайными обстоятельствами, которые не могут быть предусмотрены, предотвращены или устранены какими-либо мероприятиями), в силу Конвенции о договорах международной купли-продажи товаров 1980 г. – препятствием вне контроля стороны.

Как отмечает Е.С.Каплунова «непреодолимая сила представляет собой сложный юридический факт, элементами которого выступают признаки (его явления, проявления): внешний характер, чрезвычайность и непредотвратимость при данных условиях. Каждый из этих признаков необходим, а все вместе достаточны для квалификации всевозможных фактов на предмет отнесения к обстоятельству непреодолимой силы. Легальное определение непреодолимой силы по своей структуре (форме) выступает как разновидность производных юридических фактов: определение' непреодолимой силы, как обобщенное, системное вы-