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OPTIMIZATION INTERNATIONAL WANTED OF PERSONS AS NECESSARY ELEMENT OF REFORMING CRIMINAL PROCEDURAL ACTIVITY

In article the subjects participating during wanted of persons outside the state are determined. Questions of ambiguity of the legal acts regulating subjects of the international wanted of persons are analysed. On the basis of it is offered to make changes to the legislation of Ukraine

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The institute of the international wanted in criminal proceeding is many-sided by the nature, includes tasks, the purposes, objects, subjects of wanted, system of regulatory legal acts, set of legal proceeding which are performed for the purpose of establishment of location of a subject to search, etc. [6].

Agree with opinion I. Brus, which notes that despite positive aspects in functioning of the law enforcement agencies performing search functions there are considerable gaps in standard regulation, limits of application of powers of authority and implementation of the principles of international cooperation [1, p. 189].

Ambiguity of precepts of law (in particular, the Criminal Procedure Code of Ukraine) demonstrates «operational search activities» about unequal regulation of some aspects of the international wanted, including concerning subjects of its implementation. Therefore further for more complete clarification of essence of the international wanted as institute of a criminal procedural law it is

necessary to optimize system of subjects of the international wanted of the persons which committed a criminal offense in the territory of Ukraine. It also causes relevance of a subject of a research.

Efficiency and effectiveness of international cooperation substantially depends on specific subjects which carry out objectives [10, p. 193]. We want to note that scientists classify these persons on the basis of separation of subjects of the extradition relations, with the corresponding adaptation of such separation in the relations developing in the sphere of the international search into the following groups:

- 1) international police organizations (General Secretariat of the Interpol, Europol headquarters)
- 2) national divisions of the law enforcement agencies performing functions on the organization of the international law-enforcement cooperation (NTsB of the Interpol and their regional departments, local divisions, national authorized divisions of Europol)
- 3) national law enforcement agencies are subjects of sending requests on channels of the Interpol, and also the subjects authorized on implementation of operational search activities for requests of law enforcement agencies of foreign countries) [3, p.12–13]. By the general rule, we consider such law enforcement agencies police (militia), the customs, border service.

G. Dusheiko, V. Nekrasov, V. Matsyuk and D. Kompaniyets carry national police authorities which search the persons which committed a criminal offense, MOUP, NTsB of the Interpol in the states members to subjects of the international wanted of persons. Scientists also note that in the long term to treat subjects of the international search the International Criminal Court, motivating the opinion with the fact that in the future powers on implementation of some operational search and investigative actions can be conferred to it [7, p. 63–64]. The same classification of subjects of the international search and in scientific works of I. Leshukovoi [5, page 42–55]. In the context of stated it is necessary to analyse powers of the organizations, bodies and individuals concerning the international wanted of the persons which committed a criminal offense in the territory of Ukraine.

According to the Criminal Procedure Code of Ukraine authorized body on implementation of the international legal assistance is the Prosecutor General's Office of Ukraine which makes inquiries about the international legal assistance in criminal proceeding during pre-judicial investigation and reviews the corresponding requests of foreign competent authorities, except pre-judicial investigation of the criminal offenses referred to competence of National anti-corruption bureau of Ukraine in such cases performs functions of the central body of Ukraine. The Ministry of Justice of Ukraine is given also similar authority, makes inquiries of courts about the international legal assistance in criminal proceeding during judicial proceedings and reviews the corresponding requests of courts of foreign states.

The Prosecutor General's Office of Ukraine and the Ministry of Justice of Ukraine direct to three-day time in National anti-corruption bureau of Ukraine the materials received within rendering the international legal assistance concerning financial and corruption criminal offenses in the form of the reference [4].

So, in 2014 the Prosecutor General's Office sent 149 inquiries for rendering the international legal assistance, including 142 - for implementation of legal proceeding that testifies to the high level of international cooperation.

As for a procedural order of the international wanted, it isn't provided. However there is Art. 582 of the Criminal Procedure Code of Ukraine which regulates process of detention of the person

which committed a criminal offense outside Ukraine, that is legal proceeding are performed by investigating officers in Ukraine to find and detain the persons which committed a criminal offense. Any aspects of the organization of the international search of the persons which committed a criminal offense in the Criminal Procedure Code of Ukraine aren't determined including subjects of its implementation.

However regulations of the Instruction are specified bodies which have the right to send requests in NTsB of the Interpol on the organization of the international wanted:

- 1) law-enforcement bodies – the request is signed by the chief district, city, district in the city, linear Department of Internal Affairs on transport (their deputies) and above;
- 2) bodies of prosecutor's office – the prosecutor of the area (the prosecutors equated to it), their deputies above
- 3) the state security agencies – from the chief of Head department of the Security Service of Ukraine in the ARC, managements of the Security Service of Ukraine in areas. Cues and Kiev region. Sevastopol (their deputies) and above;
- 4) bodies Goskomgranits – from the chief of operational search department of the direction (his deputies) and above;
- 5) bodies of the state customs service of Ukraine - from the chief of customs (his deputies) and above;
- 6) bodies of state tax administration of Ukraine - from the chief of district department of tax police (the departments of tax police equated to district), their deputies and above [7].

Inquiries to NTsB are sent, as a rule, through divisions of Ukrbyuro of the Interpol in General Directorates of Ministry of Internal Affairs of Ukraine in the Crimea. Cues and Kiev region, the Departments of MIA of Ukraine in areas and. Sevastopol.

It is worth turning on a certain inconsistency of regulations of the Instruction acting with regulatory legal acts. For example, customs and tax services are joint in fiscal (on May 21, 2014). Since 2003 the state border service of Ukraine is a legal successor of the State committee on affairs of protection of frontier of Ukraine [2]. With respect thereto modification of the Instruction on subjects, representatives is reasonable to send inquiries to NTsB of the Interpol for the purpose of establishment of compliance of regulations of the Instruction to the existing penal procedural legislation.

One of sales problems of the right to sending a request about the organization of the international search of the persons which committed a criminal offense in the territory of Ukraine is that the accepted Criminal Procedure Code of Ukraine in 2012 changed system of bodies of pre-judicial investigation. So, according to article 38 Criminal Procedure Code of Ukraine bodies of pre-judicial investigation (the bodies performing pre-judicial the investigations and inquiries) are investigative divisions:

- 1) law-enforcement bodies;
- 2) security service;
- 3) the bodies exercising control of observance of the tax legislation (tax police)
- 4) bodies of the state bureau of investigations;
- 5) division of detectives, division of internal control of National anti-corruption bureau of Ukraine [4]. Divisions of the Public border service of Ukraine carry out a role of operational divisions which main objective is accomplishment of orders of the investigating officer and prosecutor (Art. 41 of the Criminal Procedure Code of Ukraine). They have no right to perform legal

proceeding in criminal proceeding on own initiative, that is, in fact, they have no right to send requests about the organization of the international wanted of the persons which committed a criminal offense in the territory of Ukraine that contradicts Instruction provisions. Therefore we suggest to state point 1.6 of the Instruction in the following edition: «1.6. Requests and other documents are signed by heads of body:

- 1) for investigative divisions of law-enforcement bodies - the chief of head department, Department of Internal Affairs (their deputies), the head of relevant organ of the highest level;
- 2) for bodies of prosecutor's office – the head of city, district prosecutor's office, his deputies, the head of relevant organ of the highest level;
- 3) for the state security agencies – the chief of Head department of the Security Service of Ukraine to the ARC, territorial administrations of the Security Service of Ukraine;
- 4) for bodies of the Public fiscal service of Ukraine - the chief of customs (his deputy) of DFS of Ukraine, the chief of head department of DFS of Ukraine in areas, Kiev and Sevastopol, the chief of relevant organ of the highest level;
- 5) division of detectives, division of internal control of National anti-corruption bureau of Ukraine – the head of such division”.

Considering the existing regulatory legal acts and work of scientists, we can draw a conclusion that not only the international organizations and police bodies can perform search actions; the persons given authority on assistance to implementation of the international search of persons are: during the using of special knowledge, provision of support services and so forth. Based on stated we can divide subjects of the international search into three groups depending on functions which they perform:

- 1) national law enforcement agencies which directly perform search actions in the territory of a certain state. They can be divided into two subgroups: state bodies to which functions on the organization of search actions in the territory of a certain state, and directly law-enforcement bodies (militia) are assigned that search the persons which committed a criminal offense for. According to Yu. Chornous, NTsB of the Interpol acts not only the intermediary and the subject of interaction, but also body, will directly organize and coordinates holding search actions, is directly involved in an extradition [9, p. 572];
- 2) the international organizations (the Interpol, Europol) which mediate between national law enforcement agencies in the international search of persons;
- 3) bodies, impartial persons which promote implementation of the international search of persons: experts, specialists, translators and others.

Considering the above, to introduce the article 572-4 «Subjects of the International Search of the Persons Which Committed a Criminal Offense» which to state in the following edition in the Code of Criminal Procedure of Ukraine:

«1. The investigating officer, the prosecutor performing criminal proceeding have the right to send inquiries for the organization of the international search of the persons which committed a criminal offense.

2. The body accepting requests about the organization of the international search is Ukrbyuro of the Interpol. Tasks and powers of Ukrbyuro of the Interpol are determined by the law”.

So, the international organizations and law enforcement agencies of Ukraine direct the activities to counteraction by a criminal offense including on involvement of perpetrators to criminal liability. In it search of the person disappearing from justice outside Ukraine is important.

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Optimization of system of subjects of the international search of the persons which committed a criminal offense promotes ensuring implementation of the principle of inevitability of criminal liability and consists in determination of an accurate circle of people, authorized to perform the international wanted.

THE LIST OF REFERENCES

1. . . . - -2014. - 6. - . 186-189.
2. []// : <http://dpsu.gov.ua/ua/about/history.html>.
3. : . 12.00.09
4. « »/ , 2011. - 22 . : 13 . 2012 . 4651-V (1 . 2016 .) []/ : <http://zakon2.rada.gov.ua/laws/show/4651%D0%B017/print1329932-924471646>.
5. : : 12.00.09 / . - . , 2004. - 217 .
6. : : 12.00.09 / . - . , 2015. - 264 .
7. : / , , - . : . , 2006. - 168 .
8. , :
9. 1997 . 3/1/2/5/2/2 []/ : <http://zakon2.rada.gov.ua/laws/show/z0054-97>.
10. // - -2012. - 1. - . 566-574.
10. / // : -2013. - 1. - . 193-197.