

**CRIMINAL LAW AND CRIMINOLOGY.
CRIMINAL PROCEDURE AND FORENSIC SCIENCES**



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**GENERAL SOCIAL PREVENTION AS A PRIORITY
DIRECTION OF HUMAN TRAFFICKING
PREVENTION**

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Андрушко А. ЗАГАЛЬНОСОЦІАЛЬНЕ ЗАПОБІГАННЯ – ПРІОРИТЕТНИЙ НАПРЯМ ЗАПОБІГАННЯ ТОРГІВЛІ ЛЮДЬМИ. У статті загальносоціальне запобігання розглядається як пріоритетний напрям запобігання торгівлі людьми. Відзначається, що проблема торгівлі людьми має глибоке соціально-економічне підґрунтя, а тому пріоритетними мають бути загальносоціальні заходи запобігання цьому явищу. Підкреслюється, що мінімізувати проблему торгівлі людьми можна лише завдяки відчутному поліпшенню економічної ситуації в державі, створенню нових робочих місць, забезпеченню гідних умов для життя і праці. Все це, зрозуміло, можливе лише у разі здійснення в Україні глибоких соціально-економічних перетворень. Іншого шляху вирішення цієї проблеми, на переконання автора, не існує.

Ключові слова: загальносоціальне запобігання злочинності, торгівля людьми.

Formulation of the problem. The problem of human trafficking continues to be relevant to Ukraine. According to official statistics, for 2013, the Public Prosecutor's Office bodies has recorded 130 cases of trafficking in human beings, for 2014 – 118, 2015 – 110, 2016 – 114, for 2017 – 340* such crimes [2]. Meanwhile one should keep in mind the high level of latency of this encroachment [3, c. 194]. In recent years, experts have noted the increase in number of victims of trafficking in people [4], which is associated, in particular, with the armed conflict in the Donbas [5]. Thus, in 2017, the mission of the International Organization of Migration (IOM) in Ukraine identified and assisted 1259 people affected by trafficking in human beings for the purpose of labor and sexual exploitation in 28 countries including Ukraine. This is the largest number of people affected by trafficking in human beings, to whom the IOM has assisted since 2000; this number is 9% higher compared to the number of victims identified in 2016 [6].

We must admit that much has been done to combat human trafficking and minimize the negative effects of this phenomenon over the past few years. Among the most important steps is that in February 2016 the Government Social Anti-Trafficking Program has been adopted for the period up to 2020 and indicative amounts of its financing at the expense of the government and, local budgets, as well as of other sources were foreseen; increase from 1 November 2016 of one-time financial assistance to victims of trafficking from one to three subsistence minimum; two times increase in the number of staff members of the National Police Department involved in the human trafficking combatting. At the same time there is still much to be done to overcome the shameful phenomenon of human trafficking in Ukraine.

Analysis of publications which initiated research on solution of this problem. Promising ways to prevent human trafficking have been developed by such scholars as V.S. Batyrgareyeva, M.G. Verbensky, V.V. Golina, T.A. Denisova, V.O. Ivashchenko, K.B. Levchenko, O.V. Lysoded, O.V. Naden, A.M. Orlean and others. However the problem

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* The sharp increase in the number of recorded cases of trafficking in human beings in 2017 is rightfully explained by criminologists as a consequence of the fact that the Ministry of Internal Affairs of Ukraine declared this year a year of human trafficking combatting, and as a result, this was reflected in the "pursuit" of indicators [1, c. 23].

retains its relevancy, and therefore requires further research.

The purpose of the article is to consider the general social prevention as a priority trend in the prevention of trafficking in human beings.

Presenting main material. Prevention of trafficking in human beings should be considered as a multi-level system of government and civil society measures aimed at eliminating or neutralizing the causes and conditions of these crimes on the general social, special criminological and individual levels.

To implement measures for trafficking in human beings preventing a system of preventive measures has been created. The subjects of the prevention of trafficking in human beings are the system of government bodies, officials, public organizations, social groups and individuals, who direct their activities to identify, eliminate and neutralize causes and conditions that determine the existence and reproduction of the analyzed crimes, as well as the preventive effect on persons who are potentially inclined to commit such crimes.

The analysis of the circle of subjects of the prevention of trafficking in human beings has proved their considerable diversity. In the context of general social prevention of these acts we should mention first of all the subjects of general competence, which create the legislative basis in the field of human trafficking combatting, approve comprehensive programs to combat trafficking in human beings, control and coordinate their implementation, carry out administrative functions for the human trafficking prevention, organize and coordinate work of relevant entities of the system for the prevention of trafficking in human beings, provide adequate resources for those purposes etc. (Verkhovna Rada of Ukraine, President of Ukraine, Cabinet of Ministers of Ukraine and other central and local executive bodies). Specialized subjects for the prevention of trafficking in human beings should include the National Police of Ukraine, structure of which includes the Department for Human Trafficking Combating, the State Border Protection Service, the Security Service of Ukraine, international and national women's non-governmental organizations (the International Women's Human Rights Center "La Strada-Ukraine" actively works in the direction of the prevention of trafficking in women and provision of help for the victims of such trafficking), institutions for the assistance of people who have suffered from human trafficking etc.

In Ukraine, in order to implement measures aimed at preventing trafficking in human beings an appropriate legal and regulatory framework has been established. First of all, we should mention the Law of Ukraine "On Combating Human Trafficking" of September 20, 2011 [7], as well as the State Social Program on Combating Trafficking in Human Beings for the period up to 2020, approved by the Resolution of the Cabinet of Ministers of Ukraine on February 24, 2016 [8].

General social prevention of crime is a complex of socio-economic, legal, cultural, educational, organizational, managerial and other measures aimed at further development and improvement of social relations, elimination of negative phenomena and processes taking place in society along with elimination or neutralization of the causes and conditions of crime [3, c. 143; 9, c. 112]. The main objectives of this preventive activities are to overcome or limit the criminogenically dangerous contradictions in society, the gradual eradication of various negative phenomena. The effectiveness of general social prevention can be ensured by a well-balanced and purposeful socio-economic state policy [10, c. 19]. According to V.V. Golina, the realization of a truly socially oriented policy in the country creates economic, organizational, managerial, political, legal and other prerequisites for the effective implementation of criminal legal and special criminological crime prevention [10, c. 21]. General social prevention is the basis, the foundation of special criminological prevention; the better d social prevention works, the narrower is the "range" of special prevention [11, c. 319–320].

Thus, the task of general social measures is not to directly impact on crime, but to solve the most important problems of social life. Relevant measures should be directed primarily to circumstances that are external to the nature of crime, in particular, serious imbalances in the economic development and the associated low living standards of the majority of the population, unemployment, lack of conditions for self-realization of individuals, destruction of moral principles of society, devaluation of universal values etc.

In our opinion, measures of the general social prevention of trafficking in human beings are of decisive and strategic importance. The priority of general social prevention is emphasized by O.V. Lysoded, who reasonably argues that the trafficking in human beings is generated primarily by factors of an economic and social nature and therefore special criminological measures of prevention achieve only limited success [12, c. 190]. The most important measures of the general social nature which must be implemented first, can be classified as follows: socio-economic (significant increase of material welfare of the population, decrease of unemployment, increase of the level of wages, struggle with poverty); cultural-educational (raising the cultural level, citizens' consciousness and responsibility,

forming a moral position oriented to universal values); organizational and managerial (implementation of the effective reform of the judiciary and law enforcement agencies).

The main reason that force people to seek work abroad, where they eventually become victims of exploitation, are unemployment in their homeland, low wages and poverty. Regarding this fact the problem of unemployment should be a matter of great importance. It is known that recently one of the main factors of its aggravation has been the increase in tension in the Ukrainian labor market, especially in regions with a large number of displaced persons [13, c. 168]. It should be emphasized that the highest unemployment rate is traditionally characteristic of the youngest age groups (15–29 years) [14], i.e. those who constitute a group of potential victims of trafficking in human beings. Internally displaced persons are a category of people who face high risks of trafficking [15], since some of these people are in a difficult financial situation and they have to accept dubious job offers in order to survive in unknown cities. Faced with financial difficulties, some of the internally displaced persons decide to go to work in Russia. However, this is the country of particularly high risk for the Ukrainian citizens. According to the Ukrainian representative office of the International Organization for Migration, the Ministry of Internal Affairs of Ukraine and the human rights organization “La Strada-Ukraine”, the absolute majority of Ukrainian citizens were victims of labor exploitation in Russia [6; 16; 17]. At the end of 2016, law enforcement agencies revealed a network of recruiters who helped to traffic Ukrainians as labor force to the Russian Federation. Those who wished to earn money were allegedly sent to work in Russia, where they were subjected to labor exploitation under threat of imprisonment [18].

It is clear that without deep socio-economic transformation, the investment of significant budget funds, as well as without attracting investments into the economy, it is impossible to create enough new jobs in Ukraine. The complexity of this problem is also that it is necessary not only to significantly reduce the unemployment rate, but also to substantially increase the remuneration for work, since the availability of work in Ukraine is not at all a guarantee of a comfortable existence. It is also necessary to gradually solve the problem of gender imbalances in wages, since today men’s salary exceeds wages of women by 33,5% [14].

The Poverty Reduction Strategy adopted by the Cabinet of Ministers of Ukraine on March 16, 2016, which identifies the key tasks that need to be done to overcome poverty and improve living standards in Ukraine, has a programmatic value. The analysis of the main directions, tasks and ways of realization of the Strategy allows us to conclude that its provisions are of declarative nature. The document states that financing of the implementation of this Strategy is carried out within the limits of state funds and local budgets, funds of compulsory state social insurance, and other sources not prohibited by legislation. At the same time, it is quite obvious that, as of today, the revenue part of the budget does not allow implementation of the tasks outlined in the Strategy, especially those relating to the real increase in wages and a decent subsistence minimum [9, c. 116]. Of course, the achievement of significant results in overcoming poverty is only possible if deep socio-economic transformations are carried out.

The ability to provide decent living for oneself and one’s family at home will eliminate the need to seek a better life abroad, thus minimizing the risk of trafficking. Nowadays a broad information campaign aimed at explaining potential threats related to dubious employment is needed among the population. Despite the fact that much has been done in this direction, the population is not well informed about this problem. Thus, according to a sociological survey conducted by the international human rights organization La Strada-Ukraine together with Ukrainian and German partners, 8% of migrants would agree to any work abroad, regardless of conditions; almost 30% absolutely do not know anything about the problem of trafficking in human beings; the same share of respondents do not know where to address if they fall into a situation of labor or sexual exploitation [16].

Effective prevention of trafficking involves not only overcoming socio-economic contradictions, but also resolving contradictions in socio-cultural and moral-psychological areas of public life. It has to be noted that a significant part of the Ukrainian population has lost socially useful landmarks and seeks primarily for material enrichment. In this context, V.I. Shakun rightly notes that “the change in the political and socio-economic order in Ukraine has contributed to a certain shift in the consciousness of its citizens, when the availability of money has become the determining factor pushing out other values, first of all moral, with which more than one generation of Ukrainians was born and grew” [19, c. 376]. B.M. Golovkin rightfully points out that spiritual and moral well-being depends to a large extent on the material well-being but not completely determined by it. Increasing the living standards and material well-being does not guarantee and does not provide for overcoming the problem of lack of spirituality, the deformation of the consciousness, the distorted system of values, but only

creates a favorable ground for this [20, с. 320]. It is necessary to promote the universal values at the state level, to establish high moral and spiritual ideals in the society, to take decisive steps in the struggle against the propagation of permissiveness, double morality, and the cult of money. In order to achieve this goal, mass media, street social advertising, etc. should be widely used. Measures should be taken to help strengthen the institution of the family, improve the position of women in society, increase the sexual culture of adolescents and young people, and make conditions for harmonious development and self-fulfillment of the individual. An important role in this area, obviously, belongs not only to government institutions, but also to religious and public organizations, educational institutions.

Among the organizational and managerial measures to prevent trafficking in human beings we should, first of all, mention effective judicial reform and reform of law enforcement agencies. The relevancy and completeness of these reforms will be measured by an increase in the level of people's trust in the law enforcement and judicial system, overcoming corruption, ensuring the implementation of inevitability of responsibility principle.

Conclusions. Summarizing the issues discussed in the article we should outline that general social measures are crucial for the successful prevention of trafficking in human beings in Ukraine. We should keep in mind that the problem of human trafficking has a profound socio-economic background, and therefore priority should be given to general social measures to prevent this phenomenon. In this regard, there is no doubt that minimizing the problem of human trafficking can only be achieved through tangible improvements in the economic situation in the country, the creation of new jobs, and decent living and working conditions. All this, of course, is possible only in case of deep socio-economic transformations in Ukraine. There is no other way of solving this problem, according to our belief.

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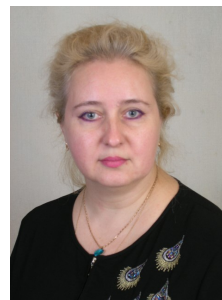
Summary

In this article the universal social prevention has been considered as a priority direction in the prevention of trafficking in human beings. The author has emphasized that it is possible to minimize the problem of trafficking in human beings only due to the tangible improvement of the economic situation in the country, the creation of new workplaces and the ensuring of decent living and working conditions.

Keywords: *general social crime prevention, trafficking in human beings.*



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CRIMINAL LEGAL ASPECTS OF ACTIVITY OF SERVICEMEN ARE ON IMPLEMENTATION OF ORDERS IN CRIMINAL LEGISLATION OF FOREIGN COUNTRIES

Дуйловський О., Шалгунова С., Шевченко Т. КРИМІНАЛЬНО-ПРАВОВІ АСПЕКТИ ДІЯЛЬНОСТІ ВІЙСЬКОВОСЛУЖБОВЦЯ ПРИ НЕВИКОНАННЯ НАКАЗУ ЗА КРИМІНАЛЬНИМ ЗАКОНОДАВСТВОМ ЗАРРУБІЖНИХ КРАЇН. Автори розглядають питання правової регламентації виконання наказів та розпоряджень військовослужбовцями державних військових формувань (Збройних Сил України та інших, утворених відповідно до закону), під час військової служби. Також авторами проведено порівняльний аналіз кримінальної відповідальності за невиконання наказу вищестоящого військового начальника в кримінальному законодавстві України та інших країн. Для порівняння, автори взяли кримінальні кодекси як країн пострадянського простору, так і тих, що до нього не входили (Японія, Швеція, Китай, Болгарія). В статті наведено спільні риси та відмінності в розумінні такого військового злочину, як невиконання наказу, формулювання його основного складу злочину, кваліфікуючі ознаки. Також проаналізовано та здійснено порівняння видів кримінальних покарань, що мають бути застосовані за невиконання наказу різними категоріями військовослужбовців.

Ключові слова: *військова служба, порушення дисципліни, злочин, невиконання наказу, кримінальне покарання за невиконання наказу.*

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