

SOME ASPECTS OF FOREIGN EXPERIENCE IN COMBATING HUMAN TRAFFICKING

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ABSTRACT

Description: The purpose of the article is to summarize the positive foreign experience of the countries presenting the most optimal means and directions of combating human trafficking. The subject of the article is to study some aspects of foreign experience in combating human trafficking with further implementation in Ukrainian legislation. Methodology: The methodological basis of the study is dialectical-materialistic and formal-logical methods of scientific knowledge of social and legal phenomena and general scientific and special methods based on them. This allowed researching the problem of the unity of its social content and legal form. The comparative legal and formal legal methods were used during the analysis of the norms of the current Criminal Procedural Law of Ukraine and other foreign States. The method of formal logic made it possible to examine the essence of human trafficking in detail, as well as to outline the tactical tasks of law enforcement agencies to overcome this negative phenomenon. The statistical method helped to identify omissions in both organizational and tactical support in combating human trafficking. Based on the integrated syntheses approach some conclusions and suggestions on the topic of the study were formulated. Based on the results of the study the authors suggested a vision of the strategy, ways and mechanisms of combating human trafficking in Ukraine through the introduction of European best practices. Practical implications: The prospective direction of effective investigation of such offenses, developed by foreign scientists, is the introduction of the Information Center on Women Trafficking, which formulates recommendations for the improvement the fight against human trafficking, as well as introduction of special educational and training programs in the activities of law enforcement agencies. Value/originality: The methodology of preparation and conducting of trainings for employees of units on counteraction to human trafficking (USA-Association of the State Agency for Criminal Investigation (ASCIA), Germany) has been analyzed. On the basis of the foreign experience, the main directions of combating human trafficking have been formulated and proposed.

Keywords: Human Trafficking, Sexual Exploitation, Public Policy, Prevention, Counteraction, Measures, Foreign Experience, Police.

INTRODUCTION

Human trafficking for the purpose of sexual slavery has become a global problem during the last decade. The social danger of this phenomenon is to attack the will, honor and dignity of the individual. Therefore, public authorities constantly monitor the phenomenon of human trafficking for the purpose of sexual slavery, which is also the subject of international discussion and, accordingly, is analyzed by law enforcement agencies in terms of overcoming and preventing this extremely negative phenomenon.

On July 27, 2015, the US State Department released the traditional annual report on human trafficking in the world. The report describes Ukraine as a country of origin, transit and destination for men, women and children who are forced into forced labor and sexual slavery. Ukrainian victims of sex trafficking and forced labor are in Ukraine, Russia, Poland, Turkey, the United States, as well as in other countries in Europe, Central Asia, and the Middle East (Svintsitska, 2019).

The escalation of such crime poses a real threat to the security of the State and society, because it strengthens its position in view of the monopolization of many illegal activities, the lack of reliable mechanisms for counteraction (Halustian & Zhovnir, 2015).

MATERIALS AND METHODS

The methodological basis of the study is dialectical-materialistic and formal-logical methods of scientific knowledge of social and legal phenomenon and general scientific and special methods based on them. This allowed researching the problem of the unity of its social content and legal form. The comparative legal and formal legal methods were used during the analysis of the norms of the current Criminal Procedural Law of Ukraine and other foreign States. The method of formal logic made it possible to examine the essence of human trafficking in detail, as well as to outline the tactical tasks of law enforcement agencies to overcome this negative phenomenon. The statistical method helped to identify omissions in both organizational and tactical support in combating human trafficking. Based on the integrated syntheses approach conclusions and suggestions on the topic of the study have been formulated.

RESULTS

National media are actively disseminating information that Ukraine is in the second group of the countries as a:

“Country of origin, transit and destination for men, women and children, who are forced into forced labor and sexual slavery”

There is an increasing number of cases of human trafficking and slavery in Ukraine. And this is not only caused by a permanent crisis and a low standard of living, but also because of the

uncontrolled border area with Russia, through which not only weapons and ammunition, but also victims and traffickers are moving. Ukraine continues to counteract this shameful phenomenon, so 2017 was declared the Year of Combating Human Trafficking (Palazhii, 2017).

Human trafficking in the modern world is one of the most brutal forms of mass violations of human rights and freedoms. The public threat of human trafficking as a very dangerous crime lies in violation of inalienable human rights – the right to respect, to freedom and personal integrity, to freedom of movement and free choice of residence, and sometimes to the right to life. Human trafficking poses a significant social threat to women, men and children who are used for begging, sexual slavery, and engaged in other illegal activities that humiliate or demean a person (Shvets & Buhaichuk, 2017).

The Office of the International Organization for Migration (IOM) in Ukraine during the period January to June 2017 detected and provided assistance to 639 victims of trafficking for labor and sexual slavery in 23 countries, including Ukraine. This represents an increase of 30% of victims, who have received assistance in the same period of 2016. The increasing vulnerability of the population to the risk of human trafficking is likely to be associated with protracted conflict, as well as political, economic and social instability in Ukraine (The UN Migration Agency, 2017).

Human trafficking is a crime, whose victims are men, women and children both for forced labor and sexual exploitation. Nowadays, more than 21 million people in the world are the victims of forced labor. Men, women and children fall into the hands of traffickers, both in their own countries and abroad. All the countries-both the countries of origin, transit, and the countries of destination are affected (Ministry of Education and Science of Ukraine, 2018).

The problem of human trafficking has affected virtually all regions and countries of the world, whether it is an economically developed region or a developing country. Some of them serve as countries of destination, the others-as the countries of origin and transit. The phenomenon of human trafficking has a power to adapt to a wide range of conditions. Both excessive wealth and critical poverty are favorable to it. In the first case, so-called caste of “consumers” is formed, and in the second one,-the “product” of their consumption, so-called “living product” (Kraievska & Baziv, 2012).

In view of these circumstances, the problem of improving the professional skills of police officers, from mastering their scientific methods of detecting and preventing crimes in the area of human trafficking, to successfully investigating them, is extremely urgent (Shvets & Buhaichuk, 2017). Therefore, with the modernization of the system of the executive power of Ukraine, it is mandatory to take into account the positive foreign experience in combating human trafficking.

DISCUSSION

There are three active actors in the world movement against human trafficking: State bodies of different countries, non-governmental non-profit organizations, international organizations (Dzialoshynskyi & Tiuriukanova, 2008). The first steps in combating woman trafficking at the international level were made by non-governmental organizations such as International Abolitionist Federation and the London Committee on the Elimination of English Women Trafficking (Husev, 2008). The activities of the International Catholic Union were also carried out in this direction. It was founded in 1896 by a number of institutions for the protection of young girls in Freiburg, Switzerland. In addition to these organizations a significant level of

activity was also carried out by the English National Vigilance Organization (United Nations Convention against Transnational Organized Crime and the Protocols Thereto, 2004), at whose initiative International Congress on Combating Woman Trafficking was convened in 1899. During the Congress, it was decided to set up a National Committee on Combating Women Trafficking in each country. The Congress laid the foundations for the formation of international cooperation between States and non-governmental organizations in the fight against women trafficking (Lukach, 2016).

Firstly, it should be noted that a joint program to prevent human trafficking and smuggling of migrants up to 2019 has been developed at the initiative of the European Union and the United Nations Office on Drugs and Crime in partnership with the International Organization for Migration, as well as the United Nations Children's Fund. This project covers thirty countries in Africa, Asia, Western Europe and Latin America.

The main objective of this project is to assist individual countries in developing and implementing national measures to combat human trafficking.

An important international legal instrument in the area of combating human trafficking is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (also known as the Protocol on Trafficking in Persons), adopted in 2000 by the United Nations Council in Palermo, Italy, is an international collection of diplomatic norms established under the Convention against International Organized Crime (UN).

The Protocol on Trafficking in Persons is one of three protocols adopted in addition to this Convention. The Protocol is the first globally legally binding act providing the definition of trafficking in persons. The purpose of this definition is to facilitate the convergence of national approaches to the definition of national criminal offenses and to ensure effective international co-operation in the field of investigation and prosecution of cases of trafficking in persons. The additional purpose of the Protocol is to protect and assist the victims of human trafficking with full respect for their human rights.

However, despite the significant legal and regulatory support for combating human trafficking, in practice there are a number of problems that adversely affect the investigation and solving of this crime.

In particular, a study by Sevruck, & Pavlenko, (2015), based on an analysis of police records and criminal proceedings in cases related to human trafficking for the purpose of sexual slavery in Amsterdam, shows that the investigation of this crime presented a number of problems. Firstly, the victims of sexual exploitation were not intended to inform law enforcement agencies on criminal acts, since in most cases victims were the persons who had been previously engaged in prostitution, so they did not consider themselves as victims, but believed that the negative situation was the result of their antisocial lifestyle. Besides, the results of the research show that there are situations in which the victim does not want to report law enforcement agencies on cases of criminal acts against him (her) because of the emotional attachment to the offender or when the victim is motivated by material rewards for the involuntary provision of sex services (Pavlenko, 2018).

In this context, it is advisable to draw attention to the positive US experience. Whereas, proper training of law enforcement officials to combat organized crime is of strategic importance for the national policy of this country. In particular, training and professional development of law enforcement officials in combating human trafficking is carried out by the Association of the

State Criminal Investigation Agency (ASCIA), the professional core of which is the most qualified and experienced heads of US investigative agencies, who provide the highest quality and efficiency of trainings for law enforcement officials on detection and investigation of the crimes related to human trafficking (Pavlenko, 2018).

Besides, the experience of Germany is of particular interest in the context of our study. Thus, there are trainings for police officers specializing in human trafficking investigations at the Federal Criminal Police Directorate. In particular, the trainings on effective combating human trafficking for the purpose of sexual exploitation are held twice a year, and the trainings on human trafficking for the purpose of labor exploitation take place once a year (Gesley, 2016).

The model legislation establishing effective control over the persons that have committed offences of a sexual nature is one of UK. The Sexual Offences Act, which was adopted in 2003, enshrines that the persons who committed sexual offenses are registered in a special database. The persons who have been charged with a sexual offense against a child after their release are obliged to notify police if they intend to travel abroad for more than 3 days. The UK authorities even have the right to prohibit the person, who sexually assaulted a child, to travel abroad if the risk of offending children abroad is proven.

In Italy, forensic police collects all relevant information about sex tourism offenses and summarizes information from similar police units in other European countries that helps the police to track the movement of sexually abusers.

In Switzerland, a number of organizations are trying to detect the cases related to human trafficking and to assist victims. In particular, attention should be paid to the Women's Information and Expertise Center, which develops recommendations to improve the fight against human trafficking, and introduces specialized educational programs on the peculiarities of communication with the victims of human trafficking in the activities of law enforcement agencies (Romy, 2017).

The Law no. 408 "*On the Prohibition of Sexual Services*" has been in force in Sweden since 1998. The law provides for a "zero tolerance" policy on prostitution and human trafficking and prohibits the acquisition of sexual services. The law provides for sanctions against persons who acquire sexual services; there are no sanctions for the providers of these services. Persons who are forced into prostitution are not subject to criminal prosecution under this law and are not legally liable. The law states that:

"A person who pays for access to casual sex is guilty of acquisition of sexual services and is liable to a fine or imprisonment of up to 6 months". According to the provisions of Chapter 23 of the Swedish Penal Code, punishment is envisaged for "attempting to commit the action as well" (Ekberg, 2004).

Among the countries of the former Soviet Union, one should consider the experience of Belarus.

According to the official data of the Ministry of Internal Affairs of the Republic of Belarus, the main forms of human trafficking have remained virtually unchanged in Belarus since 2000: these are crimes committed for the purpose of sexual or labor exploitation. 4 781 persons out of 5 406 victims of human trafficking identified in 2002-the first half of 2016, were subjected to sexual exploitation, 622-to labor, and 3-to organ removal (Laws, 2018).

The main export destinations for sexual exploitation of Belarusians are European Union countries, the Middle East and some regions of the Russian Federation (usually Moscow and the

Moscow region). The main country of export of Belarusian citizens for the purpose of labor exploitation is the Russian Federation. 15 channels of export of citizens for the purpose of exploitation in 5 countries of the world were blocked by law enforcement agencies in 2017: Russian Federation-7, Turkey-3, Germany-2, UAE-1 (Laws, 2018).

The National Action Plan for Combating Human Trafficking is being implemented in the Republic of Belarus in the form of State programs. The project of the fifth State Program for 2016-2018 has been developed at the moment. Government programs were initially focused on prosecuting traffickers, but now the focus has shifted to preventing crimes in the area of human trafficking, social advertising, protecting and rehabilitating of victims.

The main focus on combating human trafficking is the coordination of activities of international organizations, State bodies and public associations.

Within the framework of international cooperation, international anti-trafficking forums are annually organized in the Republic of Belarus, to which representatives of the interested agencies of foreign countries and world-renowned experts in the area of human trafficking are invited. The Belarusian authorities cooperate with such influential international organizations as the United Nations Development Program, the International Organization for Migration, the Organization for Security and Co-operation in Europe, the United Nations Office on Drugs and Crime, the United Nations Children's Fund and others.

The analysis of the number of detected crimes related to human trafficking (envisaged by the Palermo Protocol) indicates a tendency towards the reduction of the number of crimes in the area of human trafficking in the Republic of Belarus. In 2017, 107 offenses were identified under the Palermo Treaty, in 2016-152, in 2015-99, in 2014-50, in 2013-71, in 2012-120, in 2011-169, in 2010-217. Thus, the measures taken in Belarus have significantly reduced the scope of human trafficking and other related crimes (Laws, 2016).

The Ministry of Education of France and the representatives of the tourism industry of this country have developed special guidelines for inclusion in tourism educational programs to counteract tourism for sexual exploitation of children. Besides, Air France State Airlines dedicates a part of the proceeds from the sale of toys on the plane to fund tourism information programs for combating sexual exploitation of children. Besides, Air France produces its own videos to raise awareness of the issue of tourism for the sexual exploitation of children. These videos are shown during flights to tourist centers (Trafficking in Persons Report, 2004).

There is a network organization of children and young people in South Asian countries, which mission is to combat sexual exploitation for commercial purposes. In 2003, the organization conducted a Consultation for Children and Youth on Sexual Exploitation for commercial purposes. As part of this event, young people shared their experiences and jointly worked out measures to achieve its goal-the elimination of commercial sexual exploitation (Dzialoshynskyi & Tiuriukanova, 2008).

To align its domestic legal framework with the European Union's (EU) Acquis and other international obligations, on 15 April 2014, Cyprus introduced a new comprehensive Law 60(I) on Prevention and Combating of Trafficking and Exploitation of Persons and Protection of Victims (hereinafter referred to as the Anti-trafficking Law). The new law repealed and replaced the Law No. 87(I) on Combating Trafficking, Exploitation of Human Beings and for the Protection of Victims of 2007. Comprised of seven parts, Law 60(I) criminalizes human trafficking (Art. 6), trafficking and exploitation of human organs (Art. 7), exploitation of labor

(Art. 8) and child trafficking (Articles 10-11), the withholding personal documents (Art. 16), the use of services of victims (Art. 17), and provides for liability and sanction for legal persons (Articles 23-24). The definition provided under article 6 of the Anti-trafficking Law covers all forms (Organization for Security and Co-operation in Europe, 2019).

CONCLUSION

Therefore, summarizing the abovementioned, we can make a conclusion that an effective counteraction to human trafficking in Ukraine depends first and foremost on the proper training of employees of the anti-trafficking units of the National Police of Ukraine.

The lack of identification, lack of skills in working with children and women, who are victims of sexual exploitation and violence, in investigating cases and interviewing affected women and children, lack of break-rooms and the proper specialization of investigators and judges—all these and other problems remain without the attention of the State (Levchenko & Kovalchuk, 2014).

Therefore, in order to increase the level of knowledge and improve the professional skills of judicial and law enforcement officials, as well as other subjects of counteraction to human trafficking, it is proposed to introduce special trainings for judges, law enforcement officials, medical and social workers, lawyers, officials of the consulates, journalists and activists on identifying the signs of human trafficking, including for the purpose of sexual exploitation. The training program should include upgrading of theoretical knowledge (The Concept of Human Trafficking, 2019); the types of trafficking; legislation in the area of prevention and counteraction to human trafficking; the main areas of interaction of law enforcement agencies with the public during the investigation of human trafficking and the practical part (solving situational problems).

REFERENCES

- Dzialoshynskyi, I.M., & Tiuriukanova, E.V. (2008). *Human trafficking: Media as a resource of public counteraction to modern slavery*. Moskow: CityPressService.
- Ekberg, G. (2004). The Swedish law that prohibits the purchase of sexual services. Best practices for prevention of prostitution and trafficking in human beings. *Violence against women*, 10(10), 1187-1218.
- Gesley, J. (2016). Training related to combating human trafficking: Germany. *The Library of Congress*. Retrieved from <https://www.loc.gov/law/help/human-trafficking/germany.php>
- Halustian, Y.M., & Zhovnir, S.M. (2015). *Human trafficking in Ukraine: The latest trends and recommendations on counteraction policy in the context of the implementation of the Association Agreement between Ukraine and the European Union*. Retrieved October 15, 2019, from <http://www.rusnauka.com/40NNM2015/Economics/5202016.doc.htm>
- Husev, L.Y. (2008). The fight against trafficking in women: History and current situation in Russia and the countries of the Shanghai Cooperation Organization. *Presented to the International Scientific Conference, Donetsk, Ukraine*.
- Kraievska, O., & Baziv, N. (2012). Human trafficking as a global challenge of our age. Visnyk of the Lviv University. *Series International Relations*, 31(1), 111–117.
- Laws. (2016). Official website of the ministry of internal affairs of the republic of Belarus. *Report to the Government on combating human trafficking*. Retrieved October 15, 2019, from <http://mvd.gov.by/ru/main.aspx?guid=322813>

- Laws. (2018). Official website of the ministry of internal affairs of the republic of Belarus. *Measures taken in the Republic of Belarus to combat human trafficking*. Retrieved October 15, 2019, from <http://mvd.gov.by/main.aspx?guid=76673>
- Levchenko, K.B., & Kovalchuk, L.H. (2014). *Sexual exploitation of children in Ukraine: Status and counteraction measures*. Charkiv: Prava liudyny.
- Lukach, N.M. (2016). *International experience in overcoming the global problem of human trafficking*. Vek hlobalyzatsyy.
- Ministry of Education and Science of Ukraine. (2018). On some issues of organization of educational work on child safety and well-being. *The Letter of the Ministry of Education and Science of Ukraine dated from № 1/9-486*. Retrieved from <https://www.schoolife.org.ua/pro-deyaki-pytannya-organizatsiyi-v-zakladah-osvity-vyhovnoyi-roboty-shhodo-bezpeky-i-blagopoluchchya-dytyny-u-2018-2019-navchalnomu-rotsi/>
- Organization for Security and Co-operation in Europe. (2019). *Report of the special representative and coordinators for combating trafficking in human beings*. Retrieved from <https://www.osce.org/secretariat/422138?download=true>
- Palazhii, H.V. (2017). The cases of human trafficking and slavery have increased in Ukraine. *How to avoid becoming a victim*. Retrieved October 15, 2019, from https://zik.ua/news/2017/03/28/v_ukraini_pochastishaly_vypadky_torgivli_lyudmy_ta_rabstva_yak_ne_staty_1069197
- Pavlenko, S.O. (2018). The tactics on trafficking in human bodies of the national police of Ukraine: Domestic and foreign experience. *Series: Legal Sciences*, 5(10), 41-55.
- Romy, K. (2017). *Switzerland is becoming more and more efficient in fighting human trafficking*. Retrieved from <https://www.swissinfo.ch/rus/business/%D0%BF%D0%BE%D0%BC%D0%BE%D1%89%D1%8C>
- Sevruk, V.H., & Pavlenko, S.O. (2015). The measures to counteract transnational drug trafficking by representatives of particular ethnic groups. *Law Journal of the National Academy of Internal Affairs*, 2(1), 193–205.
- Shvets, D.V., & Buhaichuk, K.L. (2017). *Peculiarities of investigation of human trafficking: Scientific and methodological recommendations*. Charkiv: KhNUVS.
- Svintsitska, O.P. (2019). *Investigation of the crimes related to human trafficking for the purpose of sexual exploitation*. Published PhD dissertation.
- The Concept of Human Trafficking. (2019). Retrieved from http://chervone-school.com.ua/?page_id=623
- The UN Migration Agency. (2017). *Human trafficking in Ukraine—Situation review*. Retrieved from http://www.stoptrafficking.org/sites/default/files/mom/documents/CT_situation%20analysis%20JUN%202017%20UKR.pdf
- Trafficking in Persons Report. (2004). *United States: Department of State*. Retrieved October 15, 2019, from <https://www.hsdl.org/?view&did=454934>
- United Nations Convention against Transnational Organized Crime and the Protocols Thereto. (2004). *United Nations Office on Drugs and Crime*. Retrieved from <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>