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CHARACTERISTICS OF INTERNATIONAL CRIME PREVENTION MECHANISMS UNDER THE CONDITIONS OF MARITAL STATE IN UKRAINE

The scientific article analyzes the essence and structural elements of the international crime prevention mechanism under the conditions of martial law in Ukraine. It is noted that in the modern conditions of the development of Ukrainian statehood and Russia's aggressive military invasion of the territory of Ukraine, the protection of national security is of great importance. The main factor in this is the development of new and improvement of existing methods and measures of crime prevention, development and adoption of a comprehensive crime prevention plan. In this regard, the question arises as to the definition of the constituent elements of the crime prevention mechanism, which should be aimed at achieving a socially acceptable level of crime, minimizing the consequences of committing criminal offenses.

The rapid growth and internationalization of criminal offenses in recent years led to the expansion of cooperation between states in this direction and the creation of international universal norms that provide for the basics of preventing criminal offenses of an international nature. In addition, an important direction for the prevention of criminal offenses at the international level is the creation of separate institutions whose main task is the prevention of crime worldwide. This is important for Ukraine today, because in the conditions of martial law, in connection with the armed invasion of the Russian Federation on the territory of Ukraine, the international mechanisms for the prevention of war crimes are almost the most important guarantee of the restoration of justice in society.

For the effective prevention, counteraction and investigation of crimes of an international nature (cross-border, transcontinental, transnational), we consider it expedient to create international criminal justice bodies within the structure of the UN - an international organization under whose auspices the actions of nations are coordinated in order to achieve international peace and security.

Keywords: *crime prevention, crime prevention mechanism, international mechanisms, martial law, prevention, crime.*

Introduction. Crime prevention is one of the important areas of activity of every state. The rapid growth and internationalization of criminal offenses in recent years led to the expansion of cooperation between states in this direction and the creation of international

universal norms that provide for the basics of preventing criminal offenses of an international nature. In addition, an important direction for the prevention of criminal offenses at the international level is the creation of separate institutions whose main task is the prevention of crime worldwide. This is important for Ukraine today, because in the conditions of martial law, in connection with the armed invasion of the Russian Federation on the territory of Ukraine, the international mechanisms for the prevention of war crimes are almost the most important guarantee of the restoration of justice in society.

The importance of the creation and operation of universal mechanisms for the prevention of criminal offenses of an international nature requires a more detailed comprehensive scientific study of individual issues related to this activity. Some problematic issues of international cooperation in the fight against crime, including in the conditions of martial law in Ukraine, are increasingly becoming the subject of discussion in the mass media, in academic circles, as well as the subject of heated discussions. In this regard, research by international organizations on crime prevention is relevant.

The purpose of the scientific article is to study and analyze the activities of individual international organizations in the prevention of crime in the conditions of martial law in Ukraine, substantiating the main directions of their activities.

Presenting main material. Today, an important foreign policy task for our state is the formation of a safe international environment, the development of cooperation in the fight against transnational crime in the global and regional dimensions, which are the most important guarantees of the sovereign development of Ukraine. The state seeks to secure for itself a worthy geopolitical status as a full-fledged and equal subject in the system of international relations, a reliable partner in solving any issues related to cooperation in combating crime [1].

The United Nations is an important link in the system of international cooperation in the fight against crime. In Art. 1 of the UN Charter, one of its goals is to implement international cooperation in solving international problems of an economic, social, cultural and humanitarian nature. The sphere of social and humanitarian activities of the UN includes the prevention of crime, the fight against it and the treatment of offenders. These issues have become the subject of systematic consideration by the UN General Assembly, the UN Security Council, and the UN Economic and Social Council.

Ukraine, as one of the founding states of the UN, attaches special importance to the activities of the UN in maintaining international peace and security, considering participation in it as an important factor in its foreign policy.

Throughout the almost 65-year history of membership in the UN, Ukraine has made a significant contribution to its activities in the field of international cooperation in the fight against crime. During its membership in the UN Security Council, the UN Economic and Social Council, the UN Human Rights Council, the Commission on Crime Prevention and Criminal Justice, the Commission on Narcotic Drugs, the Statistical Commission and other bodies, Ukraine was active in the development of international countermeasures international crime.

Based on the urgent need for the world community to develop effective measures to combat terrorism, Ukraine joined the global anti-terrorist coalition, confirmed its readiness to

make maximum efforts to jointly fight international terrorism, primarily within the framework of the UN. At the 56th session of the General Assembly and meetings of the UN Security Council, the delegation of Ukraine announced a number of initiatives aimed at intensifying international cooperation in this area. During the World Summit in 2005, along with the USA, Russia, Canada and France, Ukraine was among the first five states that signed the International Convention on Combating Acts of Nuclear Terrorism. Currently, our state is a party to all universal anti-terrorist international treaties [2].

Among Ukraine's foreign policy priorities in the fight against crime is the maintenance and development of cooperation with the International Criminal Police Organization (Interpol), a leading and at the same time unique international law enforcement organization.

Thanks to its exceptional structure, legal base and technical equipment, Interpol is able to efficiently and rationally coordinate international police cooperation, as well as take a direct part in the prevention and localization of crime. Interpol's powers include the coordination of joint operations of police units of different countries in the fight against drug trafficking, human trafficking, terrorism, promotion of coordination and simultaneity of their implementation, as well as the announcement of an international search for criminals who are hiding from justice.

Ukraine was admitted to the International Criminal Police Organization in 1992. Our country became a full member of this organization in 1993 after the creation of the National Central Bureau of Interpol [3]. During this period, the difficult path of formation, development and recognition of the Ukrainian Bureau of Interpol as one of the advanced units representing the interests of the state at the international level was covered.

For the effective prevention, counteraction and investigation of crimes of an international nature (cross-border, transcontinental, transnational), we consider it expedient to create international criminal justice bodies within the structure of the UN – an international organization under whose auspices the actions of nations are coordinated in order to achieve international peace and security.

When creating them, one should take into account the positive experience of the UN International Court of Justice (Article 7 of the UN Charter, Statute of the International Court of Justice) [4], as well as the International Criminal Court regarding: establishing criminal liability for criminal offenses of an international nature and determining the degree of punishment for their commission; the basis of bringing to criminal responsibility for committing criminal offenses of an international nature; powers and jurisdiction of such an international body of justice; investigation of criminal offenses of an international nature; criminal prosecution; judicial review of relevant cases, appeals and review of decisions; execution of punishments.

In addition, it is necessary to develop an effective international legal mechanism for the prevention of criminal offenses of an international nature by newly created international criminal justice bodies, aimed at the implementation of UN decisions on these issues, in particular, the Vienna Declaration on Crime and Justice: Responses to the Challenges of the XXI Century, adopted at the Tenth Congress of the Organization of the United Nations on the prevention of crime and the treatment of offenders, which took place on April 10–17, 2000 in Vienna.

The main UN criminal justice bodies and units in the UN member states should be staffed by employees of the security structures of justice and law enforcement agencies. In this regard, the institute of referral of experienced workers for further work and official activities in international organizations should be introduced in the national labor legislation. For this purpose, it is necessary to determine the categories of such positions, the order of referral of employees, to provide for the inclusion of the time spent in relevant positions in international organizations against the length of service (service) in the relevant state authorities of Ukraine [5, c. 11].

The realities are such that even today there is an urgent need for further deepening of scientific research of international and regional jurisdiction regarding the fundamental provisions of social and communication law, intellectual law, innovation law, information law, electronic law, cyber law, IT law, IT economics, IT-intellectual law, IT cyber security, cyber criminology, cyber forensics, cyber expertise, cyber detective science with the aim of strengthening the effectiveness of preventing and countering illegal actions in cyberspace and Internet space (cyberterrorism, cyberfraud, cybercrime) in the field of social and communication information technologies [6, c. 25].

Conscious humanity is wary of the possible gradual granting of rights and freedoms to electronic intelligence and the possible equalization of these rights in the future with human rights, which becomes a threat to humanity both legally and socially and ethically. In any version of the legal development of society, an "electronic person" needs a direct definition of its essence and legal status. Therefore, it is obvious that its creators, owners, users have and will bear full criminal responsibility for committing computer crimes with the use of electronic intelligence. We believe that the fundamental task of law makers and human rights defenders is to prevent violations of the rights and freedoms of a person, society and the state using an "electronic person" created on the basis of electronic intelligence. At the early stages of the development of the legal framework regulating this type of legal relationship between a person and a sabbot (a robot or a program with electronic intelligence), it is necessary to provide for "legal safeguards" to prevent the use of electronic intelligence for criminal purposes against a person, society, world states and the world community.

First of all, on the basis of the introduction of innovative technologies of electronic intelligence into the life of mankind, it is necessary to form at the scientific level the conceptual foundations of the relationship between man and the sabbath (robot) [7].

Scientists S. F. Denisov and V. G. Pavlov draw attention to the prognostic message of the information publication Technology Review that in 60 years electronic (artificial) intelligence will become a significant threat to humanity. By 2022, he will think about 10 % like a person, by 2040 – by 50 %, by 2075 – thinking processes will be indistinguishable from human ones. Such conclusions were reached by a Swedish scientist, professor at the University of Oxford, Niklas Boström, who suggests being more careful in these matters, as he considers it too threatening for humanity (currently, approximately six researchers in the world are engaged in the problem of controlling artificial intelligence, the issues of its creation – tens and hundreds of thousands). The same opinion is held by Elon Musk, the founder of Tesla and SpaceX.

The 20th century raised the issue of "political crime" and "political crime" with particular urgency. The commission of crimes was coordinated and organized by the Nazi leaders of the Third Reich. They were carried out on a huge scale and in various ways, one of which was the law.

In the middle of the last century, during the Nuremberg and Tokyo trials, persons accused of political crimes were convicted as crimes against international law. For the first time in history, they appeared before the court not only as violators, but also as authors of laws. Justice and law became the main defendants in the American military tribunal in the case of Nazi lawyers. In the verdict in this case, the American military court came to the following conclusion: "The conclusion that can be drawn on the basis of the evidence submitted by the defendants themselves is clear: in German legal theory, the decrees of A. Hitler were a shield for those who came in accordance with them, but before the Tribunal, which is given the right to apply international law, A. Hitler's decrees cannot be a protection for the Führer himself or his subordinates, if they were applied in violation of international law." Fascism became a symbol and embodiment of criminal politics and international crime. The concept of "crime" has gone beyond national law.

International crime as the basis of international criminal responsibility - this concept of international crime was established in connection with the creation and activity of the International Military Tribunal for the trial of the main war criminals of the Second World War. With the Nuremberg and Tokyo precedents, international law implemented its own concept of international crime. The legal value of the Nuremberg precedent lies primarily in the fact that it formed a fundamentally new concept of crime.

International criminal jurisdiction is one of the means by which international law seeks to counter a repressive political regime, and can become an important link in the international legal mechanism for the protection of human rights. It must be recognized that the selective application of international criminal law is a serious drawback of the international legal system. In matters of bringing to court persons accused of committing acts that fall under the parameters of international crimes, justice and politics are in constant confrontation between the requirements of legal and political considerations. As a result, international criminal justice may become a hostage of political interests. It is necessary to exclude the very possibility of the emergence of a new type of political persecution – persecution carried out on behalf of the world community.

Therefore, the rapid growth and internationalization of criminal offenses in recent years led to the expansion of cooperation between states in this direction and the creation of international universal norms that provide for the basics of preventing criminal offenses of an international nature. In addition, an important direction for the prevention of criminal offenses at the international level is the creation of separate institutions whose main task is the prevention of crime worldwide.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Міжнародне співробітництво у боротьбі зі злочинністю як пріоритетний напрямок зовнішньої політики України. *Право і безпека*. 2010. № 3 (35). С. 10–15. URL : <https://core.ac.uk/download/pdf/187223272.pdf>
2. Діяльність України в рамках ООН. URL : <http://www.mfa.gov.ua/uno/ua/4263.htm>
3. Про Національне центральне бюро Інтерполу : Постанова Кабінету Міністрів України від 25 берез. 1993 р. № 220. *Збірник Постанов Кабінету Міністрів України*. 1994. № 2. С. 114.
4. Устав Организации Объединённых Наций и Устав Международного Суда. URL : https://zakon.rada.gov.ua/laws/show/995_010#Text
5. Біленчук П., Кравчук О. Забезпечення миру і безпеки в сучасному світі: правові засади. *Юридичний вісник України*. 2021. № 39. С. 11.
6. Електронне суспільство, Електронне право, Кібербезпека: стратегія розвитку інноваційної ери: монографія / Біленчук П. Д., Кобилянський О. Л., Малій М. І., Перелигіна Р. В., Тарасевич Т. Ю.; за заг. ред. П. Д. Біленчук. Київ : УкрДГПІ, 2020. С. 25.
7. Електронна цивілізація: інноваційне майбутнє України: монографія / Біленчук П. Д., Близнюк М. М., Кобилянський О. Л., Малій М. І., Пілюков Ю. О., Соболев О. В.; за заг. ред. П. Д. Біленчука. Київ : УкрДГПІ, 2018. 284 с.
8. Правові механізми протидії злочинам міжнародного характеру в еру глобальної електронної комунікації. URL : <https://lexinform.com.ua/dumka-eksperta/pravovi-mehanizmy-protidyiy-zlochynam-mizhnarodnogo-harakteru-v-eru-globalnoyi-elektronnoyi-komunikatsiyi/>

REFERENCES

1. Mizhnarodne spivrobitnytstvo u borotbi zi zlochynnistiu yak priorytetnyi napriamok zovnishnoi polityky Ukrainy. *Pravo i bezpeka*. 2010. № 3 (35). S. 10–15. URL : <https://core.ac.uk/download/pdf/187223272.pdf>
2. Diialnist Ukrainy v ramkakh OON. URL : <http://www.mfa.gov.ua/uno/ua/4263.htm>
3. Pro Natsionalne tsentralne biuro Interpolu : Postanova Kabinetu Ministriv Ukrainy vid 25 berez. 1993 r. № 220. *Zbirnyk Postanov Kabinetu Ministriv Ukrainy*. 1994. № 2. S. 114.
4. Ustav Orhanyzatsyyu Ob'edynennykh Natsyi y Ustav Mezhdunarodnoho Suda. URL : https://zakon.rada.gov.ua/laws/show/995_010#Text
5. Bilenchuk P., Kravchuk O. Zabezpechennia myru i bezpeky v suchasnomu sviti: pravovi zasady. *Yurydychnyi visnyk Ukrainy*. 2021. № 39. S. 11.
6. Elektronne suspilstvo, Elektronne pravo, Kiberbezpeka: stratehiia rozvytku innovatsiinoi ery: monohrafiia / Bilenchuk P. D., Kobylianskyi O. L., Malii M. I., Perelyhina R. V., Tarasevych T. Yu.; za zah. red. P. D. Bilenchuk. Kyiv : UkrDHRI, 2020. S. 25.
7. Elektronna tsyvilizatsiia: innovatsiine maibutnie Ukrainy: monohrafiia / Bilenchuk P. D., Blyzniuk M. M., Kobylianskyi O. L., Malii M. I., Piliukov Yu. O., Soboliev O. V.; za zah. red. P. D. Bilenchuka. Kyiv : UkrDHRI, 2018. 284 s.

8. Pravovi mekhanizmy protydii zlochynam mizhnarodnoho kharakteru v eru hlobalnoi elektronnoi komunikatsii. URL : <https://lexinform.com.ua/dumka-eksperta/pravovi-mekhanizmy-protydiyi-zlochynam-mizhnarodnoho-harakteru-v-eru-globalnoyi-elektronnoyi-komunikatsiyi/>

Вітюк Д. Л. Характеристика міжнародних механізмів запобігання злочинності в умовах воєнного стану в Україні

У науковій статті проаналізовано сутність і структурні елементи міжнародного механізму запобігання злочинності в умовах воєнного стану в Україні. Зазначено, що у сучасних умовах розвитку української державності та агресивного військового вторгнення росії на територію України важливе значення має захист національної безпеки. Основним фактором при цьому є розробка нових і вдосконалення існуючих методів та заходів запобігання злочинності, розробка і прийняття комплексного плану запобігання злочинності. У зв'язку з цим виникає питання щодо визначення складових елементів механізму запобігання злочинності, який повинен бути спрямований на досягнення соціально прийняттого рівня злочинності, мінімізацію наслідків вчинення кримінальних правопорушень.

Стрімке зростання й інтернаціоналізація кримінальних правопорушень в останні роки зумовила розширення співпраці держав у цьому напрямі і створення міжнародних універсальних норм, які передбачають основи запобігання кримінальним правопорушенням міжнародного характеру. Крім того, важливим напрямом запобігання кримінальним правопорушенням на міжнародному рівні є створення окремих інституцій, основним завданням яких є запобігання злочинності в усьому світі. Для України це важливо сьогодні, адже в умовах воєнного стану, у зв'язку із збройним вторгненням російської федерації на територію України міжнародні механізми запобігання військовим злочинам виступають чи не найважливішою гарантією відновлення справедливості у суспільстві.

Для ефективної діяльності із запобігання, протидії та розслідування злочинів міжнародного характеру (транскордонних, трансконтинентальних, транснаціональних) вважаємо за доцільне створення міжнародних органів карного правосуддя у структурі ООН – міжнародної організації, під егідою якої узгоджуються дії націй у досягненні міжнародного миру та безпеки.

Ключові слова: запобігання злочинності, механізм запобігання злочинності, міжнародні механізми, воєнний стан, попередження, злочинність.

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