

Combating Human Trafficking: Cooperation of the Middle East Countries and the Republic of Kazakhstan

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Abstract: The legal basis for the international cooperation in combating human trafficking in the Middle East countries and the Republic of Kazakhstan has been considered in the scientific article. Analyzing the international legal acts of the Republic of Kazakhstan with the individual Middle East countries, the authors propose a mechanism for cooperation and the main directions of cooperation of the Middle East countries and the Republic of Kazakhstan in detection and investigation of human trafficking, in order to ensure the effective interaction of the competent authorities in the Middle East countries and the Republic of Kazakhstan.

Key words: Crime prevention • International cooperation • Investigation of crimes • Transnational crimes

INTRODUCTION

Human trafficking is a transnational crime, which is estimated by international law as a criminal activity, controlled by transnational criminal organizations, that entails serious consequences for the security of the individual, society and state, gross violations of human rights, bringing criminals substantial illegal profits.

UN experts have concluded that people are sold into slavery (kidnapped, lured by deceit, etc.) in 127 countries of the world, foreign victims of trafficking are exploited in 137 states. In most cases, 10 countries are used as the modern days slaves smuggle places: the U.S., Israel, Turkey, Italy, Japan, Germany, Greece, United Arab Emirates and other countries [1].

According to international organizations, from 700,000 to 4 million people are purchased, sold or held in captivity worldwide each year. In 2005, the UN concluded that every year about 700 thousand people fall into slavery, a year later the U.S. State Department described a similar figure - from 600 to 800 thousand people. Organization «Human Rights Watch» believes that the actual number of people sold into slavery truly reaches 800-900 thousand people annually. Human Security

Centre estimates show that up to 4 million people are sold into slavery each year.

UN Commissions estimated proceeds from human trafficking in 2012 amounted to 32 billion U.S. dollars. Exploring the growing trend of slavery, staff in United Nations Office on Drugs and Crime believe that in the next few years, the number of victims will not drop down and is expected to reach 2.4 million people, 80% of which will be involved in the sex industry [3].

Currently, human trafficking is mentioned as one of the three great evils of our time, along with terrorism and drug trafficking. Magnitude of the problem and the resulting threats make the phenomenon of the human trafficking subject of the academic research and social policy. The outreach researchers of organized prostitution, social workers and representatives of public organizations providing assistance to the victims of trafficking also refer to the study of the phenomenon of human trafficking [4].

Action against trafficking in human beings are reflected in the works of Donna M. Hughes [5], Louise I. Shelley [6], E.B. Mizulina [7], Sally W. Stoecker [8], Melissa Farley [9], A.B. Bekmagambetova [10], L.D. Erokhina [4], E. Evstifeeva [11], T.A. Khanov and A.V. Boretsky [12] etc.

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Trafficking in human beings is now the urgent problem for Kazakhstan. It is caused by the collapse of the Soviet Union and the transition of the Republic of Kazakhstan to a market economy in 1990s, entailed by the economic crisis that had a negative impact on the traditional areas of social structure: work, family, education, etc. As a consequence, Kazakhstan and other CIS countries have become exporters of «live goods» abroad.

According to experts, Kazakhstan exported from 5 to 70 thousand people annually [13].

According to the U.S. Department of State, the Republic of Kazakhstan is in the second category of State and is a source, destination and, to a lesser extent, transit country for women and girls who become victims of the trade, mainly for the purpose of forced prostitution, as well as men and women, appearing in the situation of labor exploitation. Kazakhstan women and children are trafficked for forced prostitution within Kazakhstan and to the United Arab Emirates, Russia, China, Turkey, Azerbaijan, Greece and Israel [14].

However, it must be said that to date, this category of crime continues to be latent and the effectiveness of their disclosure and further investigation, unfortunately, leaves much to be desired, but in law, the act got its consolidation. In particular, the responsibility for human trafficking in the Republic of Kazakhstan provides in Art.128 of the Criminal Code «Human Trafficking».

According to the General Prosecutor's Office of the Republic of Kazakhstan, for example, in the period from 2005 to the present, there were 143 crimes under Art.128 of the Criminal Code [15] (Figure 1), in 47.9% of cases the proceedings were terminated for various reasons.

Analysis of available statistics and criminal cases of human trafficking indicates that, about 40% of the total number of reported cases of trafficking in persons in Kazakhstan, are associated with the removal of the victims out of the country (to the Middle East countries - 29-30%, to the Western Europe - 10-11%).

The situation with the detection and investigation of cases of human trafficking and labor exploitation in the Republic of Kazakhstan is clearly contrary to international statistics.

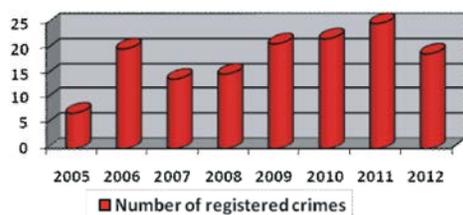


Fig. 1:

According to international experts in the former Soviet Union countries, from 20 thousand to 700 thousand people become victims of such crimes every year [16].

This factor clearly indicates that effective action against trafficking, committed on the territory of the Republic of Kazakhstan and beyond its borders, is only possible in «close» international cooperation of the Kazakhstan law enforcement agencies with the competent authorities of foreign countries, including the Middle East.

Analysis of criminal cases of trafficking in Kazakhstan indicates the available experience of interaction between the law enforcement agencies of Kazakhstan and the authorities of the Middle East countries in this direction, which unfortunately is a «one-off».

This is confirmed by the survey of 150 investigators and operatives of the law enforcement agencies of Kazakhstan, involved in the detection and investigation of the crimes, which showed that over 96% of the respondents, pointed out the improper interaction with the law enforcement authorities in the Middle East in this direction, or the absence of any interaction at all.

The foregoing clearly shows the need for a mechanism of interaction (cooperation) of the competent authorities of the Republic of Kazakhstan and the Middle East for the detection and investigation of human trafficking.

MATERIALS AND METHODS

The methodological bases of this study were: the dialectical method of learning of social and legal events, also the systemic-structural, comparative legal, logical-theoretical and separate scientific methods of cognition. In addition, the study used sociological techniques such as questionnaires and interviews with the victims, law enforcement officials and representatives of the crisis centers. In order to achieve the objective results of the study these methods were applied comprehensively.

RESULTS AND DISCUSSION

International cooperation of law enforcement agencies in the fight against crime – is the coordinated activity of two or more states, including Kazakhstan and the Middle East, having the aim of rapid and complete disclosure and investigation of transnational crimes.

Law enforcement cooperation in the combat against human trafficking should always be considered as a stage of international cooperation, as an institution, providing the legal implementation of international agreements.

International law enforcement cooperation can solve a number of problems by legal means:

- Suppression of concealment of crimes and their results abroad;
- Stopping criminals from fleeing abroad;
- Investigation of crimes committed abroad;
- Detection of crimes, which had begun in one state and were completed in another.

The study of international law enforcement cooperation is extremely important, as it considers the number of new forms and methods of criminal activity generated by the development of means of communication, increased migration flows, complexity and internationalization of business processes.

However, law enforcement cooperation is always in the context of a common cultural and economic interaction, for example, against the background of various kinds of migration.

Interaction between states for the provision of legal assistance in criminal matters, including human trafficking, mainly occurs through partial transfer of responsibility or joint criminal investigations (participation of a foreign country representative in execution of the request, or establishment of the joint investigative teams).

At the present stage the cooperation in the combat against trafficking in human beings is based on a number of international legal instruments between the law enforcement authorities of the Republic of Kazakhstan and the Middle East countries.

Thus, the Republic of Kazakhstan and most of the Middle East countries are parties to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (New York, March 21, 1950) [17], United Nations Convention against Transnational Organized Crime (New York, November 15, 2000) [18], the Protocol against the Smuggling of Migrants by Land, Sea, Air, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000) [19], the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (New York, November 15, 2000) [20], which together provide the following forms of cooperation:

- Exchange of information on human trafficking and illegal migration between the participating States;
- Joint training of the law enforcement personnel in action against trafficking in human beings;
- Execution of requests for mutual legal assistance between the participating States.

In addition, a number of bilateral agreements on fighting the crimes can be identified between the Republic of Kazakhstan and the individual states of the Middle East, for example, the agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Saudi Arabia on cooperation in the fight against terrorism, organized crime, trafficking in narcotic drugs, psychotropic substances and their precursors (Jeddah, September 28, 2010) [21], the Agreement between the Government of the Republic of Kazakhstan and the Government of the Arab Republic of Egypt on cooperation in the fight against terrorism, organized crime, illicit trafficking in narcotic drugs and psychotropic substances and other types of crime (Cairo, March 12, 2007) [22], that provide for exchange of the information, data and experience between the parties in the fight against crime.

Of particular interest are bilateral international legal instruments of cooperation, which provide a much greater interaction between the parties in this area, including: an Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Azerbaijan on cooperation in combating terrorism, illicit trafficking in narcotic drugs, psychotropic substances and precursors and other types of organized crime (Baku, May 24, 2005) [23], the Agreement between the Republic of Kazakhstan and the Turkish Republic on legal assistance in criminal cases and extradition (Almaty, August 15, 1995) [24], the Agreement between the Republic of Kazakhstan and the Islamic Republic of Pakistan on mutual legal assistance in civil, family and criminal cases (Almaty, August 23, 1995) [25] and the Agreement between the Republic of Kazakhstan and the United Arab Emirates on mutual legal assistance in criminal cases (Abu Dhabi, March 16, 2009) [26], that contain a much greater number of issues of mutual legal assistance between the parties. In general, they provide for the co-operation between the States in the following forms:

- Exchange of information on criminal cases;
- Exercise of search operations and investigations provided by the national legislations at the request of a party;

- Transmission and service of documents, transfer of evidence;
- Direction of the case materials, the recognition and enforcement of the court decisions, as well as search of persons;
- Exchange of information and experience in the methods of commission of a crime and the new forms of international crime;
- Sharing the results of their forensic, criminological and other relevant criminal investigations;
- Conduct of mutual training of experts to improve their skills;
- Exchange of experience and scientific achievements in the field of criminalistics, criminology and forensics;
- Joint activities to combat the organized crime and holding of meetings for their preparation and implementation.

It should also be noted that the following draft agreements on cooperation in criminal matters are under review of the parties: a draft agreement between the Government of the Republic of Kazakhstan and the Government of the Hashemite Kingdom of Jordan on cooperation in the fight against terrorism, organized crime, illicit trafficking in narcotic drugs, psychotropic substances, their precursors and other types of crime [27] and a draft agreement between the Republic of Kazakhstan and the Kingdom of Saudi Arabia on cooperation in the field of justice [28].

Certainly, the Republic of Kazakhstan and the individual countries of the Middle East, conducted a major work to resolve the issues on cooperation in the combat against crime, including trafficking in human beings, but at the same time, we must say that aforementioned international instruments are generally bilateral in nature and contain different terms of reference of the parties. Whereas trafficking, in most cases, is transnational in nature and occurs in not two, but several states that often do not have a contractual relationship on mutual legal assistance, which in turn makes the cooperation of States in combating traffic ineffective.

This fact is confirmed by the result of interviewing the investigators and operatives of the law enforcement agencies of Kazakhstan, 93% of which have shown that the existing legal framework of cooperation with the countries of the Middle East to counter trafficking in persons is not effective enough.

In our opinion, this problem can be solved by unification of relations of states-members of the Organization of Islamic Cooperation (Republic of

Kazakhstan and most of the Middle East are its members) in international cooperation in one of two ways:

- Creation of the police organization inside the Organization of Islamic Cooperation (Europol for example);
- Signing the Convention on Mutual Legal Assistance in Civil and Criminal Matters by the participating countries (similar convention successfully operates within the Commonwealth of Independent States [29]);
- Signing an Agreement on Cooperation of the Organization of Islamic Cooperation members in the combat against trafficking in humans, human organs and tissues (similar agreement has been successfully working in the Commonwealth of Independent States [30]).

Of course, the given list of the necessary steps to enhance international cooperation of the Republic of Kazakhstan and the Middle East countries is not exhaustive, but we believe that the adoption of these measures will significantly improve the efficiency of the combat against human trafficking, both in this region and the world at large.

Given the afore-mentioned, the international cooperation of the Republic of Kazakhstan and the Middle East countries to combat human trafficking must include the following types of mutual legal assistance:

- Obtaining testimony and statements from persons (including the accused, suspects, witnesses, victims, experts, etc.);
- Assistance in providing the detainees or other persons to give evidence or assist in investigations;
- Service of documents relating to the criminal proceedings, including subpoenas;
- Execution of searches and seizures;
- Running inspections, including judicial;
- Providing information, evidence, originals or certified copies of relevant documents and records, including bank, financial, legal and business;
- Identification and location of persons;
- Performance of expert examinations;
- Identification or tracing proceeds, property, instrumentalities or other things, their transfer for the evidentiary purposes and the implementation of measures related to the seizure, confiscation and transfer of assets criminally acquired, restitution and recovery of fines;

- Provision of any assistance that is not contrary to the domestic law of the requested State;
- Use of video conferencing technology in the investigation and criminal proceedings;
- Conducting cross-border search and seizure of information transmitted over telecommunications networks;
- Measures to locate, identify, arrest, seizure and confiscation of funds intended for terrorist purposes, etc.

The cooperation of law enforcement agencies of the Republic of Kazakhstan and the Middle East countries in combating trafficking in human beings must be expressed in the following forms:

- Delivery and execution of a request for legal assistance in the interrogation, search, examination of witnesses, forensic and other remedial actions under the laws of the States concerned;
- Request from a law enforcement agency to another, concerning the availability of evidentiary facts or other related issues, prior to submitting a formal written request;
- Delivery and execution of a request from a law enforcement agency to another to provide such operational assistance as surveillance, interception, detention etc.;
- Joint investigative teams among the States concerned;
- Criminal prosecution;
- Extradition, i.e. delivery of a person for criminal prosecution.

CONCLUSIONS

Thus, the use of the above-mentioned forms of international cooperation of law enforcement agencies of Kazakhstan and the Middle East, responsible for investigating cases of trafficking in persons, will ensure effective interaction of the competent authorities of the two countries and improve the effectiveness of investigation of transnational trafficking.

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