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International Cooperation in the Criminal Proceedings Sphere (from an International, European, and National Law Norms Correlation Perspective)

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Occurrence of part five in the Russian Federation Code of Practice ("International cooperation in the sphere of criminal proceedings") is natural, at the same time as far as this institution did not use to be practically regulated by criminal procedural legislation it evokes a lot of questions both in law-making and in law enforcing activity. Therefore, studying the given provisions on experience of already existing institutions of interstate integration together with that of separate countries legal regulation can contribute to development of Russian law norms in the area of international cooperation in the sphere of criminal proceedings.

Keywords: international cooperation, criminal proceedings, norms implementation, international law, national legislation, legal aid on criminal cases.

Point. Integration of Russia into world economic, financial and legal space predetermines necessity of international cooperation of investigatory and judicial bodies of Russia and foreign countries growth. Development of market relations reforms variety in economy has resulted not only in positive tendencies but in negative ones either (increase in economic crime, criminal money-laundering, financial swindle, etc.).

Transnational character of mechanisms of misappropriation and ways of money resources criminal receiving abroad demands active interaction with law enforcement bodies of foreign countries.

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Example. Protection of rights and freedoms is rather a difficult and twofold process on the one hand, aimed at protection of interests of a concrete person, realisation of his freedom while enjoying the right, and on the other hand- guaranteeing observance of interests of a society and the state. Necessity for right or freedom protection arises when there is: non-compliance with a legal duty or freedom; law abuse preventing from implementation of the right or freedom; dispute on the very right or freedom availability. Activity aimed at removal of obstacles in rights and freedoms implementation, struggle against non-compliance with duties and right abusing in turn, makes up content of legal means of the person's and citizen's rights and freedoms protection in a lawful state. The faster globalisation processes develop in the world, the more perfect information exchange means and physical persons and capital moving ways across the planet become, the deeper interpenetration of cultures is, the more inevitable development of integrated standards of people behavior in their relation to each other is.

At the same time, the issue on limits of universal ideas and values distribution and on admissibility of compulsion application in any form in the given process is being quite sharply discussed.

Use of international standards of that height below which there can be none in the civilised state is undoubtedly a positive phenomenon for national legislation.

Traditional principles on legal aid rendering operate in the sphere of international legal aid rendering namely:

a) The principle **of reciprocity** proclaims that the state asking for help should also be ready to render legal aid in a similar comparable case;

b) The principle **of mutual punishability** testifies, that ground for legal aid rendering is punishability not only under the addressing state law which puts forward the request on the basis of concrete circumstances of a case, but also it is necessary to consider punishability under the state rendering aid law; The principle of **ad hoc approach** says, that rendered aid can be applied only to the process underlying the request;

c) The principle **of limitation periods observance** (according to the states addressing and giving legal aid provisions);

d) The principle according to which there is no legal aid rendered **for political or military process**;

e) The principle **of competing jurisdiction observance** limits or excludes legal aid if the state which is asked for aid has already been conducting criminal procedure on the circumstances underlying the request. Should these principles be observed and towards which kinds of legal aid depends on provisions of the agreement applied in a concrete situation or if it has not been concluded then on the national legislation provisions.

However, considering the matter of international law influence on the status of the person anyhow involved in the sphere of criminal legal proceedings, it is necessary to recognise that the problem of international law norms implementation into in the national legislation in the sphere of person's rights and freedoms protection combines in itself, on the one hand, normatively regulated and theoretically acquired provisions, and, on the other hand, complexities of law enforcing character.

The international cooperation in the sphere of criminal legal proceedings makes certain changes to earlier traditionally existing concepts.

Creation of the unified mechanism of criminal legal regulation and uniform judicial-police space within the limits of the European Union (further – EU) is a subjects of unconditional concern. The given sphere was traditionally considered a prerogative and internal matter of sovereign states, but the modern construction of the EU allows to speak

about a new European structure within which the unique above -national legal system leaning against principles of supremacy of law and direct action of own rules of law is being created. Their implementation has become possible namely owing to the all-European system of institutions and bodies which decisions are binding for eurocitizens legal bodies, and member states. Thus, it is necessary to recognise that European integration does not mean radical intrusion into the sphere of national criminal justice or cancellation, centralisation or total unification of criminal-legal systems of the EU member states. On the contrary, they continue to be integrated by means of cooperation and harmonisation of criminal-legal sphere policy (Trikoz, 15). In this connection it is possible to speak about formation of a special (isolated) criminal-legal system of the EU and concept of the integration system of criminal justice of the EU (Vogel, 125-147).

After joining the Council of Europe in 1996, Russia took up obligations on adjustment of its legislation and its application practice to the European standards.

Russian Federation ratified the European convention on human rights and basic freedoms protection in 1998. From now on Russian citizens have received real possibility to submit individual complaints connected with infringement of their rights to the European court on human rights. According to FL № 54 on 30.03.1998"On ratification of the Convention on protection of human rights and basic freedom and protocols to it" established by part 1 articles 11, by part of 1 article 89, articles 90, 92, 96.1, 96.2, 97, 101 and 122 of the RSFSR Criminal procedural code on October, 27th, 1960 with subsequent changes and amendments of an order of arrest, detention in custody and detention of persons suspected in committing a crime were temporarily applied. Further the corresponding changes were introduced into legislation.

Subject of independent research is the matter decisions of the European Court on human rights influence on Russian legislation and judiciary practice development.

Certain interest within the limits of the matter on sovereignty of national norms under the conditions of the European integration is studying of the legislation of those countries which have got such experience comparatively recently.

So, the Czech Republic joined the EU in 2004 owing to it changes to legislation have been made.

Now in the Czech Republic Constitution there is no norm, similar to article 61 of the Russian Federation Constitution providing that the citizen of Russian Federation cannot be expelled beyond the Russian Federation boundaries or extradited to another state.

Besides, the Czech Republic Criminal procedural code article 438 provides possibility of moving a person in custody to another state for participation in investigatory actions.

The issue on citizens of the EU personal data protection is being actively discussed since the criminal procedural legislation provides the order of record data and other data of persons committed crimes exchange (The CR CP article 446 in particular) .

There is quite a practical position provided by the CR CP article 447 on transfer of inspection materials on a crime committed by a foreigner in Czech Republic to that state which citizen he is and, on the contrary, concerning a Czech citizen who has committed a crime in another state to Czech Republic. In this case there is no necessity for an interpreter it is possible more competently to provide protection in a more competent way, etc. Even based on the minimum analysis of the Czech Republic legislation norms it is possible to understand, that in the course of integration

fundamental citizens' rights and freedoms are affected and it should be taken into account at introducing changes to criminal-procedural law norms.

Studying European experience proves a high level of integration processes on development of effective measures in struggle against criminality as well as they are possible without damaging sovereignty, safety and contradictions to principles of the internal legislation.

Interaction of international and national systems covers law in its normative binding as well as law making and law implementing activity of international and interstate institutional structures.

Resume. Development of criminal procedural legislation in the field of the international cooperation unconditionally, as well as any other will be improved along with practice development, and despite drawbacks and gaps in regulation, while estimating current results it should be ascertained that Russian Federation has reached the level comparable to other countries in formation of international legal base of the international cooperation in the sphere of criminal proceedings.

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Международное сотрудничество в сфере уголовного судопроизводства (в аспекте соотношения норм международного, европейского и национального права)

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Появление в УПК РФ части пятой («Международное сотрудничество в сфере уголовного судопроизводства») является закономерным, вместе с тем, поскольку ранее этот институт практически не регулировался уголовно-процессуальным законодательством, это вызывает достаточно много вопросов как в нормотворческой, так и в правоприменительной деятельности. Поэтому изучение данных положений на опыте уже существующих институтов межгосударственной интеграции, а также на опыте правового регулирования отдельных стран, может способствовать развитию норм российского права в области международного сотрудничества в сфере уголовного судопроизводства.

Ключевые слова: международное сотрудничество, уголовный процесс, имплементация норм, международное право, национальное законодательство, правовая помощь по уголовным делам.