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ILLEGAL MIGRATION: COUNTERACTION AND LEGAL REGULATION IN UKRAINE

Nowadays, illegal migration in Ukraine has acquired menacing proportions to the national security, because this phenomenon stimulates the growth of the transnational crime, surreptitious labor market, drug trafficking, epidemiological and infectious diseases heavily falls on the shoulders of taxpayers. Thus, the problem of illegal human trafficking across the state border of Ukraine is extremely important today.

The issues of illegal human trafficking across the state border of Ukraine were revealed in the works of such scholars as: Yu. M. Antonian, N. I. Arkhyptsev, O. M. Dzhuzha, S. V. Knysh, M. H. Kolodiaznyi, I. I. Mytrofanov, A. P. Mosol, A. M. Prytula, I. B. Polhyla, O. S. Sainchyn, S. M. Sokov, Ye. L. Streltsov and other leading domestic scholars [1, p. 168].

It defines the following aims:

1. To study the mechanisms and elements of illegal human trafficking;
2. To consider illegal human trafficking in Ukraine according to Article 332 of the Criminal Code of Ukraine;
3. To propose the mechanism of counteraction.

However, considering the worsening of political, social, economic, national factors worldwide, as well as directly in Ukraine, the corpus delicti under the Art. 332 of the Criminal Code of Ukraine “Illegal Human Trafficking across the State Border of Ukraine” is improved and optimized by legislators, which requires proper study and consideration. The direct object of the crime under the Art. 332 of the Criminal Code of Ukraine should be admitted as social relations in the area of ensuring the integrity and inviolability of its borders. The additional direct object is the state sovereignty and the lives and health of victims. Such an additional object is due to the instructions in p. 2 of the Art. 332 of the Criminal Code of Ukraine that in the case of illegal human trafficking across the state border by a certain way the victims’ health can suffer or they may die. The objective side of illegal human trafficking across the state border of Ukraine is formulated as a crime with the formal corpus delicti. This means that the offense is considered complete at the moment of committing at least one of the actions listed in the disposition of the Art. 332 of the Criminal Code of Ukraine:

- 1) illegal human trafficking across the state border of Ukraine;
- 2) organization of illegal human trafficking across the state border of Ukraine;

- 3) management of such actions;
- 4) assisting their commission in the form of advices, instructions, providing means or removing obstacles [2].

Illegal human trafficking across the state border of Ukraine – is smuggling or an attempt of smuggling persons by any way beyond the checkpoints across the state border of Ukraine or at the checkpoints across the state border of Ukraine without appropriate documents or according to documents containing false information about a person or without permission of the relevant authorities. In accordance with the laws of Ukraine and international agreements the road, rail, ship, boat, aircraft or other service through the state border of Ukraine is carried out at the checkpoints, which are set by the Cabinet of Ministers of Ukraine. The subjective side of this crime is characterized by the direct intention. Therefore, the crimes with the formal corpus delicti, which includes illegal human trafficking across the state border of Ukraine, can be committed only with the direct intent. The subject of illegal human trafficking across the state border of Ukraine varies depending on the part of the Art. 332 of the Criminal Code of Ukraine. Thus, according to p. 1, p. 2, p. 3 of the Art. 332 of the Criminal Code of Ukraine the subject is general – that is, this can be any individual, sane or limited sane person, who at the moment of the commission of a crime was 16 years old. This person may be a citizen of Ukraine, a person without citizenship (stateless person), a foreigner [3].

Considering the stated above, we should pay further attention to the separation of illegal human trafficking across the state border of Ukraine with the related corpus delicti and administrative offenses.

References:

1. Shulha, A. M. and Tsvirkun, N. Yu. (2017), “Grounds of criminal liability for illegal human trafficking across the state border of Ukraine” *Visnyk Kryminolohichnoi asotsiatsii Ukrainy*, No. 1, pp. 167–177.
2. The Criminal Code of Ukraine № 2341-III of April 5, 2001 URL: [//http://zakon.rada.gov.ua](http://zakon.rada.gov.ua).
3. Migration in an interconnected world: New directions for action. – Global Commission on International Migration, 2005 URL: [// http://www.gcim.org/en/](http://www.gcim.org/en/)