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IMPORTANT EXTRADITION CASES INVOLVING UKRAINE

The relevance of the chosen topic is to determine the previous experience of Ukraine's application of the extradition procedure in order to deepen theoretical knowledge in this topic. Also, in connection with the latest news about the possibility of applying extradition to men of military age who illegally left Ukraine after the start of Russia's full-scale invasion, I consider it necessary to analyze the following cases in which, even though the extradition was not applied, the beginning of this procedure was laid.

The research aims to formulate the key stages initiating the extradition process and outline the causes and effects of not completing this procedure. It also seeks to analyze the chronological development in resolving the cases listed below.

First of all, it is worth clarifying the essence of the concept of extradition. As noted by Chornous Y.M., Doctor of Law, extradition - is the surrender of a person to the state whose competent authorities are looking for that person to bring him or her to criminal responsibility or to execute a sentence. [2, p. 143]

Extradition can also be defined as a form of international cooperation in criminal proceedings.

The extradition process consists of several important stages:

1. a formal request to establish the location of the person in the requested state for further extradition;
2. verification of circumstances that may prevent extradition;
3. making a decision on the request;
4. actual transfer of such person to the jurisdiction of the requesting state.

Having briefly defined the essence of the concept, we can analyze a high-profile extradition case involving Ukraine.

Savchenko Nadiya Viktorivna is a Ukrainian politician and activist, military officer.

On July 8, 2014, it became known that Savchenko was in a detention center in Russia. She was suspected of murdering two Russian journalists, namely Igor Kornelyuk and Anton Voloshin.

On September 16, 2014, a new charge was brought against Nadiya Savchenko, namely, according to Russian propagandists, she "personally participated in the torture of prisoners and wanted to hand them over for organs."

All these accusations were illegal and untrue. At the time of the murder of the two journalists, Savchenko had already been kidnapped and taken to enemy territory. According to Nadiya, she was transported in six different cars with a bag over her head, and she was given conditions, namely, either to cooperate with the enemy authorities or to be imprisoned.

On March 22, 2016, Savchenko was sentenced to 22 years in prison by a city court in Rostov region. On April 5, this sentence came into force and it was at this point that Ukraine had the legal opportunity to request Russia to extradite Savchenko to Ukraine.

On April 19, 2016, the head of the Ministry of Justice of Ukraine, Pavlo Petrenko, said that Ukraine was preparing all the necessary documents for Savchenko's transfer to Ukraine.

On April 27, 2016, Savchenko was given a package of documents for her extradition to fill out. At the same time, President of Ukraine Petro Poroshenko noted the possibility of exchanging Savchenko for Russian officers Olexander Alexandrov and Yevgeny Yerofeev, who were sentenced to 15 years in prison in Ukraine.

Mykola Polozov, Nadiya Savchenko's lawyer, noted that the extradition process usually takes about 6 months, but hoped that everything would be expedited.

However, the extradition procedure stopped when the documents were completed. On May 25, Russian President Putin signed a decree pardoning Nadiya and at the same time President of Ukraine Petro Poroshenko pardoned two officers, O. Aleksandrov and Y. Yerofeev. On the same day, a presidential plane took off for Nadiya Savchenko and transported her to Ukraine, where she received the "Hero of Ukraine" award.

Let's move on to another high-profile extradition case involving Ukraine.

Vitaliy Markiv is a Ukrainian serviceman, a participant in the Russian-Ukrainian war.

On the night of June 30-July 1, 2017, Vitaliy Markiv was arrested in Bologna, Italy. Local prosecutors accused the Ukrainian national guard of murdering Andrea Rocchelli and his Russian translator, Andrei Mironov, who were killed in a mortar attack near Sloviansk in May 2014.

However, Vitaliy was not guilty of the murder of the two perpetrators because in 2014, the National Guard of Ukraine did not have mortars in its regular or non-regular schedule. Therefore, it can be concluded that Vitaliy did not even have the physical ability to kill the journalist and the translator.

It is worth noting that Markiv is a citizen of Ukraine and Italy. The court in Pavia considered him primarily as a citizen of Ukraine.

The Italian court found Vitaliy guilty and sentenced him to 24 years in prison. In 2015, the Prosecutor General's Office of Ukraine began preparing everything necessary for Markiv's extradition to Ukraine. However, the extradition procedure never took place in this case.

In November 2019, Markiv's lawyers filed a lawsuit with the Milan Court of Appeal. The appeal was postponed for a long time due to the coronavirus pandemic.

In November 2020, the Italian court acquitted Vitaliy Markiv due to the lack of criminal offense and proper evidence regarding the deaths of the Italian and the Russian. Subsequently, Vitaliy returned to service in the National Guard of Ukraine.

Having analyzed the above cases, it is worth summarizing that the fact that a Ukrainian citizen is detained in a foreign country for a committed offense does not mean the beginning of the extradition procedure. This process is lengthy and not always guaranteed. Extradition is regulated by certain international treaties and, of course, violation of at least one of the requirements, set in the law, makes this process impossible. I also consider it necessary to emphasize the following features of the extradition procedure:

1. There must be a legal justification for the necessity of extradition.
2. Extradition in no way goes beyond criminal proceedings; it is one of the stages of the criminal process.

3. Extradition takes place only when the act committed is a criminal offense with a punishment both in the state in which the person was detained and in the state to which the person will be extradited.

4. International treaties provide for a number of grounds that may impede the extradition process or even make it impossible.

This list will help to better understand, even without a detailed analysis, why in some cases the extradition procedure may be initiated but not completed.

REFERENCES

1. Кримінальний Кодекс України; Закон від 05.04.2001 №2341-|||
2. Черноус Ю. М., Видача особи (екстрадиція) у кримінальному провадженні щодо злочинів міжнародного характеру. Вісник кримінального судочинства 2015, 1 : 143-150
3. Савченко видали пакет документів для екстрадиції в Україну, 27.04.2016. URL: <https://www.pravda.com.ua/news/2016/04/27/7106970/>
4. Процес екстрадиції Савченко в Україну ще не запущений , 07.04.2016. URL: <https://www.unian.ua/politics/1312220-protses-ekstraditsiji-savchenko-v-ukrajinu-sche-ne-zapuscheniy-petrenko.htm>
5. Суд в Італії обиратиме запобіжний захід для українського нацгв'ярдійця, 04.07.2017 URL : <https://www.radiosvoboda.org/a/28595032.html>