

1. Combating human trafficking: features of criminal liability

Abstract

In the modern era of globalization, the issue of cross-border migration is becoming increasingly acute, which is caused, first of all, by its influence on the development of one of the types of international crime, in addition to drug and arms trade, which is human trafficking. Thus, the German researcher Leo Keidel considers human trafficking as one of the main activities of criminal groups, which ranks 5th in the hierarchy of criminal activity in Germany [1, p. 48]. This is certainly a violation of all human rights and freedoms enshrined in the Universal Declaration of Human Rights adopted by the UN General Assembly. The greatest concern is the increase in the volume of illegal export of women and children from their native countries abroad for the purposes of sexual exploitation and forced labor. According to some data, the total number of people around the world who fall into slavery every year is 1 million people, and the profits of criminal groups are 3.5 billion dollars annually [1, p. 48]. Meanwhile, underground prostitution contributes to the spread of sexually transmitted infections, including AIDS. Recently, there are also cases of people being used for organ transplantation, because the lack of donor material and its high cost attract criminal structures.

Since Russia launched a full-scale war, humanitarian workers and volunteers have reported cases of human trafficking at Ukraine's borders. During conflicts, people are often captured and sold. The UN Commission on Combating International Crime considers human trafficking to be the third largest form of organized crime, second only to illegal drug and arms trafficking. According to the Commission's estimates, the annual profits of this transnational business amount to 12 billion dollars. USA. The Center for Human Security (Vancouver, Canada), taking into account internal human trafficking in various countries, estimates the number of victims of this crime at 4 million people. The International Labor Organization estimates that approximately 1.2 million children worldwide are trafficked each year, mostly for commercial sexual

exploitation or forced labor. The annual report of the US State Department on human trafficking notes the degree of progress of measures to combat human trafficking in Ukraine. One of the latest reports states that "Ukraine is a country of origin, transit and is gradually becoming a country of destination for men, women and children subjected to forced labor and sexual exploitation. Ukrainians become victims of human trafficking in Ukraine, as well as in Russia, Poland, Iraq, Spain, Turkey, Cyprus, the Seychelles, Portugal, the Czech Republic, Israel, Italy, the United Arab Emirates, Montenegro, Great Britain, Kazakhstan and Tunisia. Citizens of foreign countries, in particular Moldova, Uzbekistan, Pakistan, Cameroon and Azerbaijan, were subjected to forced labor in Ukraine" [2, p. 10]. During the period from 2012 to 2018, the Ministry of Social Policy established the status of a person who suffered from human trafficking for 629 persons (623 - citizens of Ukraine, 6 - foreigners), of which 269 - women, 291 - men, 69 - children (27 boys, 42 girls)) [3].

Various aspects of human trafficking have been repeatedly studied in legal literature, in particular by such authors as K. Dyadyur, G. Zharovska, O. Kraevska, B. Lyzogub, N. Lukacs, M. Fialka and others. At the same time, it should be recognized that the conducted studies do not exhaust all the problems in this area, as a number of debatable issues remain, in particular, regarding the strengthening of criminal liability for human trafficking.

1.1 Concept and types of "human trafficking"

The slave trade is flourishing in the world. It is not about the terrible period of slavery in ancient times. Among the most important violations of human rights in the modern world, the crime that has many names remains relevant: "white slavery", "human trafficking", "human smuggling".

Human trafficking is one of the fastest growing areas of criminal business in the world. It brings in millions of profits, gradually displacing the arms and drug trade. This industry is dominated by well-organized criminal syndicates, and the profits are used to finance other types of criminal activity, including drug and arms trafficking.

According to expert estimates, every year 800,000 to 900,000 people become victims of human trafficking all over the world, and most of them are women and children [2, p. 8]. So, for some it is "big business", for others it is the collapse of hopes and hopes for a better future.

Our state is a country from which, as a rule, "live goods" are exported to world "markets" - to Turkey, Italy, Poland, Spain, Germany, Hungary, the Czech Republic, Greece, the Russian Federation, the United Arab Emirates, Israel, the United States of America and other countries.

Human trafficking in Ukraine appeared as a result of the increase in unemployment, the decrease in allocations for social protection programs, and the impoverishment of the population. The low standard of living pushes citizens to look for work abroad, even without knowledge of local legislation, language, qualifications, on illegal terms, which at the same time causes them to fall into risk groups. Thus, human trafficking is a significant public danger. The negative impact of this phenomenon causes the destruction of social morality, contributes to the degradation and alienation of a person, the loss of family ties, a dangerous "addiction" to a negative phenomenon, the appearance of depressive syndromes and suicidal tendencies, the growth of aggressiveness and cruelty, the spread of sexually transmitted diseases, and AIDS. In recent years, there has been an increase in the phenomenon of child trafficking for the purpose of using them for forced labor, begging, sexual exploitation, drug distribution, and other forms of criminal activity.

According to the results of a representative population survey commissioned by the International Organization for Migration (IOM), the share of those who work abroad unofficially is about 41% of all citizens of Ukraine who work abroad [2, p. 8]. Most of them leave on tourist or private visas, work without the necessary documents, which significantly reduces their legal protection and causes them to fall into the sphere of interests of human traffickers. Therefore, the task of national significance is the fight against this phenomenon, the protection of Ukrainian citizens abroad.

This phenomenon can be effectively counteracted only under the conditions of using a systemic approach, coordinating the activities of all interested parties -

governmental and non-governmental organizations, social protection agencies, migration services, etc.

All over the world, human trafficking is considered one of the most serious crimes against a person.

On November 15, 2000, the UN Commission on Human Rights recognized human trafficking as a modern form of slavery. The UN General Assembly adopted Resolution 55/25, which contains the Protocol to prevent and stop trafficking in persons, especially women and children, and to punish it, which complements the UN Convention against Transnational Organized Crime [4]. In this document, for the first time, an international definition of the concept of "trafficking in human beings" is given. Human trafficking is the exploitative recruitment, movement, transfer, harboring or obtaining of persons through the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability, or through bribery, payments or benefits, to obtain the consent of a person who controls another person [4]. Exploitation includes, at a minimum, exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or removal of organs (Article 3(a) of the Protocol to Prevent and Suppress Trafficking in Persons, Especially Women and children, and the punishment for it, which complements the United Nations Convention against Transnational Organized Crime). At the same time, the consent of the victim of human trafficking to the planned exploitation is not taken into account, if any of the specified measures of influence were used in relation to her [2, p. 9].

The Council of Europe gives the following definition: "trafficking in human beings is an illegal act carried out by a person who intentionally or unintentionally induces a citizen of a third country to leave for another country, by using deception or another form of violence, or by abusing the dependent position of this citizen or his administrative status ". Human trafficking is one of the modern forms of slavery, which includes domestic slavery, forced marriages, debt bondage, forced employment in prostitution or participation in the production of pornographic products, intolerable forms of labor, etc. [3].

In 1998, the Verkhovna Rada of Ukraine introduced an amendment to the Criminal Code of Ukraine establishing criminal liability for human trafficking (Article 124-1), and in 2001 a new Criminal Code of Ukraine was adopted, which included a separate article 149 "Trafficking in human beings or other an illegal agreement against a person". Amendments to the Criminal Code of Ukraine regarding the improvement of responsibility for human trafficking were adopted in 2006 [5].

The Criminal Code of Ukraine dated April 5, 2001 defines the concept of human trafficking by listing the acts included in it. Thus, in accordance with Article 149 of the Criminal Code, human trafficking means: 1) sale or other paid transfer of a person. A sale is a contract (agreement), according to which one person (the seller) transfers a stipulated thing (and in this case, a person) into the actual illegal ownership of another person (the buyer), and the latter undertakes to pay for it a certain amount of money, stipulated by by agreement of the parties [6]. Other transfer for payment should be understood as the actual illegal transfer of ownership of a person to another person as a result of a mining contract, pledge or other contracts, according to which a person is provided for exploitation for a material reward in the form of values or services of a material nature; 2) execution of any other illegal agreement related to a person's legal or illegal movement with or without his consent across the state border of Ukraine for further sale or other transfer to another person. Such agreements include those agreements as a result of which a person is transferred to another person free of charge (donation, free exploitation), as well as actions arising from the person who receives a "live commodity" - purchase, receipt of a person as a result of exchange, hiring, pledge or other agreement. For this form of human trafficking, the goal is mandatory: further sale or other transfer to another person. Moreover, the guilty party must be aware that the person is being handed over to another person precisely for this purpose [3].

According to the Law of Ukraine "On Combating Human Trafficking" dated November 20, 2011, human trafficking is the execution of an illegal agreement, the object of which is a person, as well as the recruitment, transfer, hiding, transfer or receipt of a person, committed for the purpose of exploitation, in including sexual, with the use of deception, fraud, blackmail, the vulnerable state of a person or with the use

or threat of use of violence, with the use of an official position or material or other dependence on another person, which are recognized as a crime according to the Criminal Code of Ukraine [7]. Recently, the term "trafficking" has been increasingly used, which also means human trafficking and slavery. Accordingly, the word "trafficker" appeared. Traffickers are those who are involved in criminal business: recruitment agents who lure victims with false promises, employees of employment firms, carriers and couriers, sellers and buyers of "live goods", etc. [2, p. 10]. Therefore, human trafficking is an illegal, moreover, a criminal activity, the basis of which is violence against a person.

Human trafficking takes many forms, including forced labor, slavery, practices similar to slavery, sexual exploitation, use in the porn industry, forced pregnancy, organ harvesting, human experimentation, use in begging, involvement in criminal activity, use in armed conflicts, adoption (adoption) for profit, sale of a child [3].

Depending on the purpose, human trafficking can be divided into:

- 1) trafficking in women and children for the purpose of using them for sexual purposes (for the production of pornographic materials or prostitution);
- 2) human trafficking for the purpose of exploiting their labor;
- 3) human trafficking for the purpose of debt bondage;
- 4) human trafficking for use in armed conflicts;
- 5) trade for the purpose of involvement in criminal activity;
- 6) trafficking of children for the purpose of adoption (adoption) for commercial purposes [8, p. 23].

Depending on the place of residence of the "buyer", two types of human trafficking can be distinguished:

- 1) intrastate (sale or other payment transfer of a person);
- 2) interstate or transnational (the execution of any illegal agreement with respect to a person, related to legal or illegal movement with or without his consent across the state border of Ukraine for the purpose specified in Article 149 of the Criminal Code of Ukraine) [3].

In practice, human trafficking is carried out by committing a number of actions, which together make up its concept. In most cases, well-organized criminal groups are engaged in human trafficking, the transnational character of which makes these crimes almost unpunishable from a practical point of view, and the presence of the mandatory goal of subsequent sale or other transfer to another person (when moving across the state border of Ukraine) and the necessary requirement of awareness of the guilty the further purpose of such activity (sexual exploitation, involvement in criminal activity, use in the porn business, and others provided for in Article 149 of the Criminal Code of Ukraine) further complicates the process of proof.

1.2 International and national legislation on combating human trafficking

The first international treaty was the International Treaty on Combating the Trade in White Slaves of May 18, 1904 (Paris) [9, p. 83]. The main emphasis was placed on the protection of victims, and not on the punishment of criminals.

The Convention for the Suppression of the White Slave Trade was adopted on May 4, 1910. In it, trafficking in women and girls was considered a criminal offense. In the future, the cooperation of the states continued within the framework of the League of Nations. The Geneva Convention on the Prohibition of Trafficking in Women and Children was adopted in 1921. In accordance with the terms of the Convention, states undertook to take all necessary measures to search for and punish persons involved in child trafficking.

Since human trafficking is recognized as an international problem, it cannot be solved at the level of one Ukraine. Such a struggle requires both national and international joint actions and cooperation - it is necessary to use joint efforts to break this chain of violence committed for the purpose of labor and sexual exploitation. To combat human trafficking and illegal migration from Ukraine, our state has fully joined international documents aimed at combating human trafficking and discrimination against women. Including:

- the 1949 UN Convention on the Suppression of Trafficking in Human Beings and the Exploitation of Prostitution by Third Parties, which significantly expanded the

range of actions considered criminal in the areas of human trafficking and sexual exploitation [10];

- The UN Convention on the Elimination of All Forms of Discrimination against Women of 1979, the sixth article of which requires states to adopt and implement relevant laws that will contribute to the cessation of all types of trafficking in women;
- The 1993 UN Declaration on the Elimination of Violence against Women, in which the sale of women, their exploitation and forced prostitution are clearly named as a type of violence against women that states are obliged to eradicate [11].

In 1997, the European Ministerial Conference was held in The Hague (Netherlands), which was held under the leadership of the European Union. The Hague Ministerial Declaration of European Recommendations on Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation was adopted there.

Therefore, international legal documents to which Ukraine has joined require our state to adopt and implement relevant laws that will contribute to the cessation of all types of human trafficking, and especially women. Evaluating Ukraine's efforts in the fight against human trafficking, it should be noted that our state was one of the first in Europe to adopt the Law on Criminal Liability for the said crime. Criminal liability for human trafficking was established by the Law of Ukraine dated March 24, 1998 by supplementing the Criminal Code of Ukraine of 1960 with a new article 1241, where the criminal law definition of "human trafficking" was applied for the first time. As a result of further changes caused, in particular, by joining the above-mentioned conventions, today criminal responsibility for this crime is provided for in Article 149 "Trafficking in persons or other illegal agreement regarding the transfer of a person" of the Criminal Code of Ukraine of 2001 [6]. The mentioned article was significantly revised and brought as close as possible to the provisions of the UN Convention against Transnational Organized Crime [4]. Article 146 of the Criminal Code of Ukraine provides for criminal liability for illegal deprivation of liberty or abduction of a person in the form of restriction of liberty for a term of up to three years or imprisonment for the same term [6].

Exploitation of child labor is prohibited in Ukraine under the threat of criminal punishment. Thus, Article 150 of the Criminal Code of Ukraine recognizes as a crime the exploitation of children who have not reached the age at which employment is permitted by law, by using their labor for profit. Part two of Article 303 of the Criminal Code of Ukraine provides for liability for coercion or involvement in prostitution [6].

Evidence of the international community's concern for the current situation is a number of conventions, pacts and protocols for the settlement of this issue. Among them are such as:

- Convention on Combating Trafficking in Human Beings and Exploitation of Prostitution by Third Parties, adopted by the UN General Assembly on December 2, 1949. Consolidates the provisions of other international treaties on this issue, adopted since 1904. Its main task is to determine effective measures to fight against all forms of trafficking in women and exploitation of prostitution. For the first time in the history of international treaties, this Convention declared prostitution and human trafficking to be acts incompatible with the dignity and value of the human personality, which endanger the well-being of individuals, families and society [12].

- International Covenant on Civil and Political Rights, New York, December 16, 1966. It is an addition to the Universal Declaration of Human Rights; defends the right to life and states that no person should be subjected to trials, forced labor and unlawful detention or suppression of such freedoms as freedom of movement, expression and association with others [13].

- Convention on the Elimination of All Forms of Discrimination against Women, CEDAW, New York, 12/18/1979. The most comprehensive act on women's rights, which defines legislative obligations aimed at eliminating discrimination against women [14].

- In 1997, the Hague Ministerial Conference was held, at which the Declaration of European recommendations on effective measures to prevent the fight against trafficking in women for the purpose of their sexual exploitation was adopted. Its purpose is to support further actions to prevent human trafficking, as well as to provide the necessary assistance to victims of trafficking. This Declaration calls on EU member

states to provide or consider appointing national rapporteurs to provide relevant national governments with information on the extent of trafficking in women, measures to prevent and combat trafficking in women.

- The document on Joint Action of the Council of Europe from 1997 lists additional types of punishment and measures of an administrative nature, such as the confiscation and confiscation of income and property of a trafficker and the closure of institutions that participated in human trafficking. Obliges EU member states to impose administrative or criminal liability for crimes committed on behalf of a legal entity without taking into account the criminal liability of individuals who became accomplices or instigators of the crime [1, p. 49].

Currently, the Framework Decision of the Council of Europe on human trafficking is in effect at the EU level. Its goal is the unification of national criminal legislation to ensure an effective fight against human trafficking. It complements the instruments already adopted by the Council of Europe, such as the Joint Actions of 1996, 1998 and 2000, as well as the STOP programs (aimed mainly at the development of an interdisciplinary approach involving all stakeholders and paying great attention to the very important role of non-governmental organizations) and DAPHNE (specially developed to support the activities of non-governmental organizations in the field of protection of women and children victims of violence).

- The UN Convention against Transnational Organized Crime, New York, November 15, 2000, aims to promote international cooperation to prevent and fight against transnational organized crime. Provides law enforcement agencies and the judiciary with unique means of combating this problem [4].

- The Protocol on Prevention and Prevention of Trafficking in Human Beings, Especially Women and Children, and its Punishment is an addition to the aforementioned Convention. For the first time gives an international definition of the concept of "trafficking in human beings"; serves to prevent, fight and consolidate international cooperation in the fight against this crime; defines common terminology, harmonizes laws and practices applied in different countries. An indispensable attribute

of human trafficking is gaining control over a person (for example, through the seizure of documents) for the purpose of exploitation [15].

The growth of this phenomenon is influenced by the following factors:

- globalization of the economy and increased labor mobility (migration);
- growing demand for so-called "private services" in developed countries;
- increasing level of unemployment among women;
- increase in the number of the population living below the poverty line in developing countries;
- an increase in the number of people using the Internet, which is almost not controlled from the point of view of the law and is often used for criminal purposes [1, p. 49].

To date, seven criteria have been established by which the activities of the governments of various states are evaluated. Including:

- does the government make active efforts to investigate and prosecute acts of human trafficking on the territory of its state;
- does it protect victims of the slave trade;
- whether it conducts public education campaigns to prevent human trafficking;
- whether it cooperates with other states;
- whether he makes efforts to prosecute state officials who are involved in the slave trade, whether he facilitates it, etc.

Based on these criteria, the countries of the world are divided into three categories:

1) which fully comply with them (from the post-Soviet states, only Latvia was included);

2) which do not fully comply, but try to comply (most post-Soviet states are in this group);

3) whose governments do not fully comply with the minimum standards and do not make significant efforts (Kyrgyzstan, Armenia, Tajikistan, Belarus, Russia, Afghanistan, Iran, Saudi Arabia, Greece, Indonesia) [16, p. 23]. In our opinion, it would be appropriate for international organizations to introduce certain sanctions for

those countries that do not meet the specified criteria. Among such sanctions can be used, such as, for example, restrictions on the provision of material aid, investments, loans by developed countries to developing countries.

Therefore, international organizations, governments of countries, including Ukraine, are working on the creation of legislation on countermeasures by people. The imperfection of the legal framework regarding human trafficking requires the adoption of new normative legal acts, as well as amendments to the current legislation.

1.3 International organizations and state structures involved in combating human trafficking

The first significant steps to combat human trafficking at the international level were made only in the 20th century. by such non-governmental organizations as the International Federation of Abolitionists and the London Committee for the Detection and Elimination of Trafficking in English Girls [9, p. 82]. The activities of the International Catholic Union were also carried out in this direction: it founded in 1896 a number of institutions for the protection of young girls in Freiburg, Switzerland. In addition to these organizations, the English National Vigilance Associations (National Vigilance Associations) were active, on the initiative of which in 1899 the International Congress for the Prevention of Trafficking in Women was convened. During the work of the Congress, a decision was made to create a National Committee for Combating Trafficking in Women in each country. The Congress laid the foundations for the formation of international cooperation of states, as well as non-governmental organizations in the fight against trafficking in women [9, p. 83].

Real measures against the spread of trafficking in women have been proposed by a non-governmental organization - the World Alliance Against Trafficking in Women (Thailand). In cooperation with an international legal group, Standards for the provision of humanitarian assistance to persons who have become objects of trade were developed.

At the beginning of the 21st century, human trafficking is becoming a global challenge. At the current stage, the fight against human trafficking is observed at all

levels: global (UN and its structures, Interpol), regional (OSCE, Council of Europe, EU) and state (state countermeasures). The nation-states faced with the problems that have intensified in the last fifteen years cannot cope with them on their own. International organizations, whose system is coordinated by the UN, came to the rescue.

The United Nations has established the Commission on Crime Prevention and Criminal Justice, the Special Working Group of the Commission on Combating Human Trafficking (hereinafter: the Working Group), the position of the UN Special Rapporteur on combating violence against women and the Office of the UN High Commissioner for Human Rights. Within the framework of the United Nations, overall responsibility for the study of slavery in all its aspects is borne by the Working Group on Modern Forms of Slavery [9, p. 83-84].

All these structures work together to include issues related to human trafficking in international, regional and national initiatives to combat this phenomenon and monitor it. In addition, the UN Office for Drug Control and Crime Prevention is working on the "Global Program to Combat Trafficking in Persons", which focuses on the role of criminal groups in the illegal trafficking of drugs and people, as well as on the development of measures to implementation of criminal justice. Specialized UN bodies, such as the International Children's Fund (UNICEF, IMCER), UNHCR and UNDP have also begun to pay attention to the problem of human trafficking in connection with their educational and charitable initiatives and development programs.

The Council of Europe addresses the issue of human trafficking directly or indirectly through a number of its committees and programmes. Among them is the long-term activity of a multi-vector group of specialists chaired by a representative of the Coordinating Committee on Equality of Men and Women (CDEG). Since 1997, this group has been involved in a number of initiatives to combat human trafficking "for the purpose of sexual exploitation", including the preparation of recommendations for the Committee of Ministers and member states of the Council of Europe, which are due to be released soon.

The EU has significantly intensified its activities in the field of prevention of human trafficking. The integration processes taking place in the EU encourage its institutions to direct their efforts to the development of effective mechanisms for preventing and countering human trafficking, as well as creating a positive climate for in-depth study of this problem. Signed on December 13, 2007, the Lisbon Treaty on the Principles of the Functioning of the European Union contains important new provisions that strengthen the EU in the fight against international cross-border crime and, in particular, human trafficking.

The modern EU institutional mechanism for combating human trafficking is a system of EU bodies, as well as acts adopted by these bodies. It is called to realize the values of the EU, realize its goals, serve its interests, as well as the interests of its citizens and member states, ensure consistency, effectiveness and continuity of its policies and actions (Article 13 DCS). The EU institutional mechanism for combating human trafficking has a complex structure, the basis of its organizational structure is the European Parliament, the European Council, the Council, the Commission, the European Coordinator for Combating Human Trafficking, the EU Expert Group on Human Trafficking, Europol, Eurojust, the European Judicial Network, the Eurojust Network. The main EU institution in combating human trafficking is the European Commission, which makes decisions and introduces initiatives in this area.

The problem of human trafficking, in particular - trafficking in women, has been raised many times in the context of OSCE activities since the early 1990s, when the OSCE participating states undertook to combat this phenomenon, including it in the Moscow Document (1991). The Parliamentary Assembly of the OSCE in 1996 expressed serious concern about the extent of human trafficking in the OSCE region and beyond, recognized the connection of this phenomenon with the economic problems of the transition period and the growth of organized crime (Stockholm Declaration of 1996). During the OSCE Seminar on the Human Dimension (1997) and the Conference on the Human Dimension (1998), NGOs and several participating countries identified human trafficking and violence against women as phenomena that have an extremely negative

impact on the fate of women, so in 1998 the Council of Ministers The OSCE also called human trafficking a new security threat that requires close attention.

Despite these measures, the OSCE has only recently taken concrete steps in the field of combating human trafficking. Note that in 1999 The Office on Drugs and Human Trafficking (ODINR) supported three projects aimed at combating human trafficking, two of which were extended in 2000. In April 1999, thanks to the funding of the United States, within the framework of ODINR, the position of Adviser on the problem of human trafficking was established, whose task is to help the OSCE in determining the main areas of activity to combat this phenomenon, which would not be a simple duplication of the efforts of other organizations, but as well as assistance to the OSCE in the development of the OSCE Plan of Actions and Initiatives for 2000.

Several OSCE missions in the field have also dealt with the problem of human trafficking, mostly at the level of providing support in individual cases. OSCE missions in Albania, Bosnia and Herzegovina report on cases of human trafficking, and mission members have begun coordinating efforts with other international organizations. The most important OSCE document adopted to prevent the phenomenon of human trafficking is the Action Plan to Combat Human Trafficking, adopted at the Maastricht Council of Ministers by 55 OSCE foreign ministers in December 2003.

As for the International Organization for Migration (IOM), it includes 100 missions from different countries of the world. The organization's activities are mainly focused on conducting research on the main areas of migration, including the trafficking of women from Central and Eastern Europe.

A major contribution to the fight against human trafficking has been made within the framework of the International Labor Organization (ILO). Governments submit reports to the ILO on the steps they take to comply with these international legal documents. Reports are studied by the Committee of Experts on the Application of Conventions and Recommendations, as well as by the International Labor Conference. Any problems are considered before the final solution. The ILO also actively implements technical assistance programs in the fight against child labor, bonded labor and other unacceptable forms of exploitation. The ILO provides information to the Working Group

on Modern Forms of Slavery; in turn, the work of the Working Group highlights how the ILO conventions are maintained and those cases when the ILO can provide assistance in solving problems [9, p. 84]. A significant contribution to combating human trafficking belongs to the World Health Organization (WHO). During the Working Group hearings, WHO representatives testified that sexual exploitation, debt bondage, child trafficking and the practice of apartheid pose serious risks to the mental and social development of abused children. Sexual exploitation also increases the risk of spreading human immunodeficiency virus (HIV) and AIDS. In addition to assisting in the study of the problem of child prostitution and the development of approaches to the prevention and treatment of diseases, WHO and its regional institutions provide technical assistance in the implementation of specific projects. In particular, the WHO is developing guidelines on the issue of trafficking in human organs for the purpose of transplantation.

Slavery and slavery-like practices are the subject of many meetings and reports held under the auspices of UNESCO. For example, UNESCO funds research by the International Catholic Children's Bureau on protecting minors from pornography.

FAO deals with issues of child bondage and debt bondage in connection with existing forms of land tenure. FAO's activities aimed at increasing people's activity and providing assistance to small farmers' organizations are seen as an effective tool against debt bondage.

The UN Children's Fund - UNICEF - plays a significant role in the implementation of international strategies related to modern forms of slavery. One of the permanent groups of the Office of the United Nations High Commissioner for Refugees (UNHCR) monitors the situation of refugee children and deals with the specific problems they face. The guidelines for UNHCR field offices on refugee children cover the issue of involvement in armed conflicts and the adoption of minor homeless children.

The UN Commission on the Status of Women is constantly paying close attention to issues such as slavery that primarily affect women. This was reflected in the debates, conclusions and recommendations of the world conferences within the United Nations Decade of Women in Mexico City, Copenhagen and Nairobi. The Commission provides information to the Working Group on Modern Forms of Slavery.

The United Nations Division of Crime Prevention and Criminal Justice, in its research on child abuse, including the trafficking and sale of children, identifies four possible countermeasures through the use of the justice mechanism. These include crime prevention, treatment and reparation for victims, legal sanctions against alleged criminals and the treatment of criminals, and the restoration of their identity.

The International Criminal Police Organization (Interpol) holds conferences dedicated to the problem of human trafficking and tries to support and coordinate the efforts of law enforcement agencies of various countries to combat the phenomenon of trafficking in women and children. Interpol provides the Working Group with information on practices similar to slavery within the framework of the agreement with the United Nations [17].

The activities of non-governmental organizations and mass media as channels through which society receives information about the problem are effective in combating human trafficking.

In general, the global anti-trafficking mechanism is of fundamental political importance. Efforts of individual countries to combat human trafficking on their own are ineffective without coordinated international efforts. Since the problem has reached global proportions, all countries involved in this activity must work together, pooling their efforts. After all, the current mechanism of countermeasures has many shortcomings. In addition to the imperfection of the legal framework for combating human trafficking, and in some countries - its complete absence, there are a number of international and political factors of the low effectiveness of the mechanism for combating human trafficking.

In particular, a unified approach to solving the problem has not yet been developed at the international level. Interstate cooperation remains insufficiently effective, primarily in relation to the protection of victims. Joint measures (for example, between the police of Poland and Germany, Austria and the Czech Republic) are mostly based on personal connections. Efforts are not coordinated at the global or national levels. Only in some countries there are interdepartmental bodies that are engaged in the development of recommendations regarding changes in the current

legislation, and also ensure the coordination of actions between law enforcement, migration authorities, employment services, social services and foreign affairs departments. Awareness of the problem of human trafficking remains low. Programs and procedures for the extradition of perpetrators of victims of human trafficking need to be coordinated, as today the case is mostly resolved by their arrest and deportation. There is a lack of qualified workers in the system of law enforcement agencies, migration services and other institutions whose competence includes countering human trafficking and providing assistance to victims of this crime [9, p. 87]. Article 5 of the Law of Ukraine "On Combating Human Trafficking" defines the entities that carry out measures in the field of combating human trafficking:

- central bodies of executive power;
- local bodies of executive power;
- foreign diplomatic institutions of Ukraine;
- institutions for assistance to persons affected by human trafficking;
- local governments;
- enterprises, institutions, organizations regardless of the form of ownership

(with consent);

- public organizations (with consent);
- individual citizens (with consent) [7].

But, according to M. Fialka, to understand the provisions of part 2 of Art. 13 of the Law is needed much more broadly than simply as subjects implementing measures in the field of combating human trafficking [18, p. 131].

Bodies or institutions that meet the needs of victims of human trafficking in Ukraine are: Ministry of Social Policy; Ministry of Internal Affairs; Ministry of International Affairs; Department of Justice; Ministry of Health; Ministry of Education and Science; Ministry of International Affairs; Administration of the State Border Service; State Migration Service; State Employment Service; other central bodies of executive power; Security Service; The Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations; institutions for assistance to persons affected by human trafficking; healthcare

institutions; local governments; international, public organizations, individuals and legal entities.

The above-mentioned bodies and institutions are subjects of the National Cooperation Mechanism in the field of combating human trafficking. Therefore, the Law in Clause 1, Part 2, Art. 13 indicates that the National Mechanism defines entities that meet the needs of persons affected by human trafficking.

The need for temporary shelter and provision of food is realized in institutions of assistance to persons affected by human trafficking, namely: in centers of social services for families, children and youth; in social service centers (provision of social services); in centers of social and psychological rehabilitation of children and shelters for children.

The activities of the State Employment Service are aimed at realizing the need for material assistance, the need for permanent or temporary employment, and the need for self-employment. Within her competence, she:

- promotes employment and employment of persons affected by human trafficking, as well as provides services for professional training, retraining, advanced training and professional orientation;

- contributes to the resolution of issues related to the provision of unemployment benefits to persons who have suffered from human trafficking on the grounds and in the manner prescribed by current legislation;

- with the consent of persons affected by human trafficking, involves them in participating in paid public works;

- in the preparation of programs for the employment of the population, it provides for measures to promote the employment of persons affected by human trafficking, ensures the implementation of the specified programs;

- exercises other powers provided for by law within the scope of competence.

The needs for legal assistance are mostly met by the Ministry of Internal Affairs of Ukraine, namely:

- provides assistance in obtaining passports, registration at the place of residence (stay) of persons affected by human trafficking;

- within the scope of competence, assists foreigners who have suffered from human trafficking in returning to their country of origin;

- guarantees the safety of persons recognized as victims of human trafficking, witnesses and other persons participating in criminal proceedings in cases related to human trafficking;

- ensures the restoration of the rights of victims of human trafficking;

- carries out, within the scope of competence, other powers stipulated by the legislation regarding the protection of the rights and legitimate interests of persons affected by human trafficking. The Ministry of Health meets the needs for medical and medical advisory assistance:

- organizes qualified examination and treatment of persons affected by human trafficking; provides counseling by medical workers in health care institutions for persons affected by human trafficking;

- provides solutions to issues related to the provision of necessary medical assistance to foreigners and stateless persons who have suffered from human trafficking and are in the territory of Ukraine;

- recommends sanatorium-resort treatment to persons affected by human trafficking in sanatorium-resort institutions of the health care system if there are medical indications;

- exercises other powers provided for by law within the scope of competence.

Implementation of the need for education, qualification or requalification is entrusted to the Ministry of Education and Science, which provides

- preparation of social and psychological rehabilitation programs for pupils and students affected by human trafficking;

- ensures the work of a psychological service in the education system with children of preschool and school age and students from persons who have suffered from human trafficking;

- monitors visits by affected persons to educational institutions;

- promotes the involvement of pupils and students who have suffered from human trafficking in community and group work in general education, extracurricular, vocational and technical and higher educational institutions;

- organizes training of specialists of bodies, services, institutions, institutions for children, as well as persons who are constantly in contact with children in the spheres of education, sports, culture and recreation, on the issues of identifying and providing assistance to children affected by human trafficking;

- provides consultations to persons affected by human trafficking regarding their exercise of the right to education and promotes the exercise of such a right;

- exercises other powers provided for by law within the scope of competence. Ensuring the need to return to the country of origin (for foreigners or stateless persons) is carried out by the State Migration Service. Within its powers, this body carries out:

- issuing to foreigners and stateless persons documents for temporary stay or permanent residence in Ukraine, as well as travel abroad, student tickets to foreign students and stateless persons who have suffered from human trafficking;

- implements measures for the repatriation of foreigners and stateless persons who have suffered from human trafficking.

At the same time, it is necessary to take into account the victim's needs for safety and protection.

The fight against human trafficking as a complex illegal phenomenon, which also contributes to the spread of other serious crimes, requires above all a combination of efforts of state bodies aimed at increasing the effectiveness of the organization and interaction between them [18, p. 133].

A clear distribution of functions and powers of state authorities should ensure orderliness and coherence of actions within the structure of the national mechanism for combating human trafficking.

It should be noted that the effectiveness of activities aimed at combating human trafficking is inextricably linked with the issue of close cooperation of state bodies in the specified area. In addition, combating this negative phenomenon requires a

comprehensive approach through the joint efforts of public organizations and governments, at the level of the relevant state bodies of the countries from which the victims are taken, and those countries where they are transported for further exploitation. The practice of state bodies requires an active search for ways to improve such interaction.

As part of this, the main directions of interaction of countermeasures subjects are outlined:

- information provision of authorities and management on issues related to human trafficking;
- prevention of causes and conditions that contribute to human trafficking;
- participation in interdepartmental preventive operations aimed at identifying and preventing the involvement, movement across the state border or transit through the territory of Ukraine of potential victims of human trafficking;
- control over migration processes within the scope of competence defined by Ukrainian legislation in the field of combating human trafficking;
- preparation of proposals for improving Ukrainian legislation in the field of combating human trafficking.

In this area, the main forms of interaction of state authorities are distinguished, namely:

- mutual information,
- conducting joint meetings, classes, briefings,
- counseling,
- joint planning,
- joint implementation of specific activities with the involvement of forces and means of cooperating bodies, units, etc.

The Ministry of Social Policy of Ukraine was designated as the national coordinator in the field of combating human trafficking by the Decree of the President of Ukraine dated August 5, 2020 No. 306/2020 [19]. Given that human trafficking is a particularly dangerous crime, which is a gross violation of human rights, and the issue of human trafficking remains relevant in Ukraine, new types of human trafficking are

emerging, the number of cases of internal human trafficking is increasing, while the number of cases of commercial sexual exploitation of children is not decreasing, and the number of similar offers on the Internet is even increasing, on June 22, 2011, the All-Ukrainian Coalition of Public Organizations to Combat Human Trafficking was created in the city of Kyiv [20].

It was created by public organizations that work in the field of protecting the rights of victims of human trafficking in Ukraine, namely the Mykolaiv Foundation "Lyubystok", the Vinnytsia public organization "Progressive Women", the Ternopil City Women's Club "Revival of the Nation", the Public Movement "Vira, Hope, Lyubov" of Odesa, Kharkiv City Organization of the International Organization "Women's Community", Kherson Regional Center "Successful Woman", Kharkiv Regional Public Organization "Your Right", Sevastopol City Youth Public Organization "Youth Center of Women's Initiatives", public organization "Anima" in the city of Yuzhne, public organization "Espero" in the city of Khmelnytskyi, Transcarpathian public women's organization "Vesta", Chernivtsi regional public youth association "Svemjini", Vinnytsia regional human rights organization "Source of Hope", Dnipropetrovsk regional public organization "Promin", Western Ukrainian Center "Women's Prospects", International Charitable Foundation "Caritas Uk Rainy", Charitable Foundation "Caritas Ivano-Frankivsk UGCC" [20]. Therefore, the fact of the spread of the phenomenon of human trafficking in the 21st century, as one of the types of transnational criminal activity, challenged the entire world community, nullifying basic human rights and freedoms and generally accepted norms and principles of international law. Measures to combat this phenomenon should be based on a comprehensive approach and be implemented by consolidating the efforts of government structures, international organizations, and every individual member of society, both in countries of origin and countries of destination and transit. The basis for combating human trafficking should be the coordinated activity of all anti-trafficking subjects of international organizations, state structures, and public organizations.

1.4 "Human trafficking" as a form of organized criminal activity

The UN Convention against Transnational Organized Crime states that human trafficking is an act committed for the purpose of exploiting, recruiting, transporting, transferring, harboring or obtaining people through the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability or by bribery in the form of payments or benefits to obtain the consent of a person who controls another person. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or organ harvesting [4].

The definition of the concept of "human trafficking" consists of three independent parts: 1) criminal actions; 2) the means used to commit these actions; 3) goals (operation).

The application of this definition requires the presence of at least one element in each of these three groups: the act (action) of recruiting, transporting, transferring, harboring or receiving people; using threats, force or other forms of coercion, kidnapping, fraud, deception, abuse of power or using a vulnerable position, or offering payments or benefits to a person who has control over the victim; for the purposes of exploitation, which includes the exploitation of prostitution and other forms of sexual exploitation, forced labor or services, slavery or slavery-like practices, as well as organ harvesting [21, p. 375].

If we turn to the national criminal legislation, then this crime in accordance with Part 1 of Art.149 of the Criminal Code of Ukraine is the recruitment, transfer, hiding, transfer or receipt of a person committed for the purpose of exploitation, using deception, blackmail or the vulnerable state of a person [6]. Exploitation of a person should be understood as all forms of sexual exploitation, use in the porn business, forced labor or forced provision of services, slavery or customs similar to slavery, servitude, involvement in debt bondage, removal of organs, conducting experiments on a person without his consent, adoption (adoption) for profit, forced pregnancy, involvement in criminal activities, use in armed conflicts, etc. [6].

We can agree with the opinion of Y. G. Lizogub that this article of the Criminal Code of Ukraine needs improvement, as it does not provide a full understanding of the criminal phenomenon that is human trafficking [22].

The question of how to distinguish illegal exploitation of a person from completely legal exploitation (which will necessarily take place if a person works or provides services for hire) seems to be fundamental, when, for example, this transfer is carried out by commercial firms from full-time employment legal basis.

According to H. P. Zharovska, the following should be considered the grounds for such a distinction:

1. Legal status of the person, organization, which carries out legal movement, and the absence of such status, if it is about human trafficking.
2. A legal agreement with the person who is the subject of the transfer, and the absence of such an agreement in the case of human trafficking.
3. Further legal status of the person in the country of displacement, lack of such status in the case of human trafficking.
4. The purpose of relocation can be exclusively legal activity permitted by the laws of Ukraine, and participation in illegal criminal business, if it is about human trafficking [21, p. 375].

At the same time, the absence of any sign of legality seems to give grounds for asserting that in this particular case it is about human trafficking.

In Art. 1 of the Law of Ukraine "On Combating Human Trafficking" human trafficking is defined as the execution of an illegal agreement, the object of which is a person, as well as the recruitment, movement, hiding, transfer or receipt of a person, committed for the purpose of exploitation, including sexual, with the use of deception, fraud, blackmail, the vulnerable state of a person or with the use or threat of use of violence, with the use of an official position or material or other dependence on another person, which is recognized as a crime according to the Criminal Code of Ukraine [7].

At the same time, it should be understood that the use of "forceful" methods of coercion, as well as deception, fraud, etc., cannot be considered the main feature of human trafficking.

There are well-known cases when individuals agreed to participate in these crimes voluntarily, when there was no question of any form of coercion. Therefore, let us correct the definition given in the law, noting that human trafficking should be considered any movement of a person for the purpose of his further exploitation, including sexual, for the purpose of obtaining profit by the organizers of such movement, which is carried out both on a voluntary contractual basis, as well as with the use of fraud, blackmail, the vulnerable state of a person, etc. [21, p. 376].

This definition makes it possible to distinguish the following signs of a crime that is recognized as human trafficking: compulsory transfer of a person, presence of further exploitation, profit-making by persons who organized such transfer, while the sign of means of influence on a person is secondary to the above-mentioned signs.

Analyzing the chosen form of transnational criminal activity, one should recognize its "technological" and orderliness, which gives reason to consider this crime clearly structured and organized.

Research by H. P. Zharovska shows that the mechanism of human trafficking involves the movement of victims after concluding illegal agreements or agreements (or for the purpose of concluding such agreements) to other countries, where they are exploited. On their way to their place of exploitation, victims of trafficking may pass through one or more transit regions, where they may be resold, temporarily exploited, or hidden in transit or transshipment facilities.

A human trafficking channel, in which individual stages are implemented by one criminal organization, we will call a "monochannel", if different criminal organizations operate in the channel, then it should be considered a "polychannel".

A typical scheme of organized criminal activity in monochannel is quite simple:

- the first stage – involvement of victims in the field of human trafficking (recruitment, kidnapping, etc.);
- the second stage – moving (legal or illegal) victims to the place of exploitation;
- the third stage – direct exploitation of victims of human trafficking [21, p. 376].

The activities of the criminal organizations that created the polychannel are more complex and sophisticated. In the structure of the activity of the "polychannel" of

human trafficking, a number of stages that successively replace each other should be distinguished:

- the first stage – attraction (recruitment, kidnapping, etc.) of victims, their transportation and sale to criminal organizations specializing in the second and third stages;

- the second stage - mediation during human trafficking. It involves buying victims from criminal groups that specialize in the first stage and reselling them at a higher price to criminal organizations that specialize in the third stage. This phase is not mandatory and depends on the organization of a specific channel;

- the third stage - buying victims of human trafficking from criminal organizations specializing in the first and second stages, and direct exploitation of the victims. Depending on the degree of openness of activities of criminal organizations, a distinction should be made between overt and covert recruitment of persons for human trafficking. During the implementation of human trafficking in public form in order to find victims, as well as consumers of their services, various methods of public advertising are used, when criminal organizations use the mass media to make appropriate offers to an unspecified circle of persons.

In order to hide the criminal nature of the activity in such cases, criminal organizations are forced to use various methods of covering up criminal activity, using offices, various interview methods, legal selection technologies, castings, etc. Loud means of finding victims are characteristic of such types of illegal activities as prostitution and illegal employment.

In an informal form, the search for potential victims is carried out without any advertising, usually in an environment where information about potential victims can be found or collected, for example, in databases or card files of medical institutions, boarding schools, maternity homes, employment agencies in the environment of persons who engaged in prostitution, vagrancy, job search, etc.

Unspoken means of finding victims are characteristic of such violent types of human exploitation as the production of video productions with scenes of real violence and torture, sexual exploitation in the form of sadomasochism, removal of organs and

tissues, as well as conducting medical and other experiments on humans. At the same time, possession of potential victims is often carried out in the form of kidnapping, in some cases, the search for victims is carried out on the prior order of criminal counterpart organizations (intermediaries or exploiters). Due to the fact that the subjects of human trafficking "involve" only pre-selected persons in it and, as a rule, avoid contacts with random acquaintances, the implementation of operational and investigative measures is problematic, which makes the fight against this type of transnational crime difficult and unpredictable from the point of view of obtaining real results, which puts this type of crime in a number of particularly dangerous transnational crimes [21, p. 376].

One of the important features of the investigation of criminal cases of human trafficking is that the subjects of countermeasures can be not only the perpetrators, but also the victims themselves. Such opposition can be expressed in various forms of obstructing the investigation: from active actions to conceal or destroy traces of a crime to such passive forms as refusal to submit a statement, evasion of giving statements exposing human traffickers, or participation in other investigative actions, as well as operatively - search activities.

An analysis of the prerequisites for providing resistance on the part of the victim allows us to identify the following typical reasons that encourage victims of human trafficking to engage in similar behavior:

- 1) reluctance to disclose information degrading the honor and dignity of the victim, including the type of activity he had to engage in during exploitation. This especially applies to persons who were engaged in prostitution; 2) fear of retaliation by human traffickers;
- 3) submission to one's fate, apathy to the surrounding reality;
- 4) lifestyles incompatible with the idea of cooperation with law enforcement agencies;
- 5) loyal attitude towards human traffickers;
- 6) the influence of certain psychological factors, including reluctance to initiate negative memories of the experience;

7) the desire to hide from the law enforcement agencies committed offenses, including crimes, to commit which they were pushed by human traffickers. Such offenses can include illegal crossing of the state border, use of known forged documents, prostitution, possession (use) of narcotic substances, violation of the migration legislation of the host country or the established regime of residence there [23, p.104]

Thus, human trafficking and human exploitation in the 21st century is actually a form of slavery, a phenomenon that our ancestors overcame a century ago. This anti-social phenomenon finally transformed into a separate type of highly organized criminal business, which nowadays represents a threat to the national security of all countries of the civilized world.

1.5 Criminal responsibility for human trafficking

Currently, the only article that provides for punishment for criminal offenses - human trafficking - or other illegal agreement against a person is Article 149 of the Criminal Code of Ukraine. For the first time, criminal responsibility for human trafficking was established by the Law of Ukraine of March 24, 1998 No. 210/98 of the Supreme Court, according to which the Criminal Code of Ukraine was supplemented by Article 124-1 "Human Trafficking". Over the years of this norm, its wording was changed four times, which in itself creates difficulties during its application in practice [24, p. 266].

The regulatory framework for combating human trafficking in force in Ukraine, which consists of national and international legislation, needs to be supplemented and clarified, although it is generally suitable for creating an effective mechanism for combating human trafficking.

In accordance with the national criminal legislation, this crime, according to Part 1 of Art. 149 of the Criminal Code of Ukraine, is the recruitment, transfer, hiding, transfer or receipt of a person committed for the purpose of exploitation, using deception, blackmail or the vulnerable state of a person [6].

Qualifying circumstances in the investigated composition of the crime are the trafficking of minors, in relation to several persons, or repeatedly, or with a prior conspiracy by a group of persons, or an official using an official position, or a person on whom the victim was financially or otherwise dependent, or combined with violence, which is not dangerous for the life or health of the victim or his relatives, or with the threat of using such violence. Especially qualifying circumstances are actions committed against a minor, or by an organized group, or combined with violence dangerous to the life or health of the victim or his relatives, or with the threat of such violence, or if they caused serious consequences [6].

The legislator at the disposal of Art. 149 of the Criminal Code of Ukraine applies the term "trafficking in human beings", but the current norms of criminal law do not contain a clear definition of this term. In judicial practice and the criminal-legal characteristics of human trafficking, which is carried out by scientists, the concept of human trafficking is equated with the sale and purchase of a person as a commodity.

There are rare cases when courts interpret human trafficking as a sale and purchase in a civil law context and actually apply a civil law analysis of the transaction of sale to this legal relationship, indicating the presence of essential conditions and obligations that are decisive in civil law relations. In practice, during the commission of a crime, according to Art. 149 of the Criminal Code of Ukraine, purchase and sale in the classical civil law sense may not take place, but the fact of the transfer of a person (or management of a person) is decisive for solving cases of human trafficking, regardless of the occurrence of other obligations inherent in the purchase and sale transaction, such as the price, availability and form of payment for the transfer of a person (debt bondage involves payment by working out).

The legislator considers freedom (will), honor or dignity of a person to be the object of human trafficking. Mandatory feature of the composition of the crime provided for in Art. 149 of the Criminal Code of Ukraine, is the subject of a crime.

Mandatory feature of the composition of the crime provided for in Art. 149 of the Criminal Code of Ukraine, is the subject of a crime. The object of this crime is a person. Neither a human corpse nor its organs (tissues) are the subject of the specified crime.

Therefore, attempts to commit acts provided for in Art. 149 of the Criminal Code of Ukraine, in relation to a dead person, can only be qualified as attempted human trafficking (in case the guilty parties do not realize that the person who is the subject of the transaction has died). A woman making any illegal deals with her unborn child during pregnancy does not constitute a completed crime and can only be qualified as attempted human trafficking [25, p. 20]. The objective side of the composition of the crime is almost the most important element of the composition of the crime for practical purposes. By studying the objective side, a conclusion is made about the content of other elements of the composition of the crime, and any conclusion in a criminal case can be made exclusively based on the material traces that the crime leaves behind in real reality. In law enforcement practice, law enforcement officers first of all establish the objective side of the composition of the crime [26, p. 116]. This crime can take the following forms:

- 1) human trafficking;
- 2) implementation of another illegal agreement, the object of which is a person;
- 3) recruitment;
- 4) displacement;
- 5) hiding;
- 6) transmission;
- 7) receiving a person.

Given the public danger of such a crime as human trafficking (buying and selling), it is sufficient to establish the fact of an agreement to sell a person under certain conditions and the very fact of transferring a person (or managing a person). Current legislation does not require a mandatory condition for the qualification of a crime under Art. 149 of the Criminal Code of Ukraine - establishment of a one-time transfer (payment) of funds for a human commodity, since the purchase and sale can take place with a deferred payment or criminals can agree on the payment of funds from the sale of a person within a certain time, during which the victim will be able to work off part of the funds [6] .

Human trafficking, regardless of the form of its external manifestation, can only be committed with direct intent. The presence of the victim's consent indicates the absence of a direct intention to commit human trafficking, and therefore, the absence of the composition of the crime in general. Certain difficulties arise when resolving the issue of participants - subjects of the crime provided for in Art. 149 of the Criminal Code of Ukraine. It is about the fact that the purchase and sale of a person is possible only between the recruiter and the person who will carry out the exploitation, or human trafficking can also take place between other subjects, since in many cases the courts are faced with the fact that in criminal offenses there was no buyer [6].

In such a case, when the recruiter in the future himself exploits the victim, criminal liability is not excluded and must be brought under Art. 149 of the Criminal Code of Ukraine for recruiting, moving, transferring, hiding, obtaining a person, committed for the purpose of exploitation, using one of the methods of influence [6].

The main problems in preventing and detecting this type of crime are that not all victims are able or willing to seek protection of their rights. Many victims simply do not know where to turn for help. Very often, the fact that the law enforcement agencies of foreign countries refuse to cooperate with the law enforcement agencies of Ukraine also serves as an obstacle.

The real numbers of victims of the slave trade are an order of magnitude higher than those provided by international organizations. To fight human trafficking in Ukraine, as well as in the whole world, cooperation of states in this area, improvement of the legislative framework, development of the potential of the criminal justice system in Ukraine, in particular the police, investigators, prosecutors and judicial bodies, is necessary. The state's fight against such social phenomena as poverty and ignorance is also necessary. The state must provide social protection, psychological and financial assistance to the victims, as well as provide jobs for the country's population.

The most effective way to prevent human trafficking is for governments to create broad flows of legal and legal migration. Getting most migrants to use official channels will help governments more accurately detect, isolate and stop the use of illegal

methods. In addition, legal migration flows can have positive consequences for society in general.

Therefore, the norm of Art. 149 of the Criminal Code of Ukraine needs improvement, as it does not provide a full understanding of the criminal phenomenon - human trafficking. Draft Law No. 5134 "On Amendments to the Criminal Code of Ukraine on Strengthening Criminal Liability for Human Trafficking" was developed [27]. Draft Law No. 5134 provides for:

- strengthening of criminal responsibility for human trafficking in Article 149 of the Criminal Code of Ukraine: increasing the minimum term of imprisonment in Part 2 of Article 149 up to six years;

- responsibility for recruiting, moving, hiding, transferring or receiving a person, regardless of the presence of this person's consent to exploitation, if coercion, kidnapping, deception, blackmail, material or other dependence of the victim, his vulnerable state or bribery of a third party were used for him supervises the victim to obtain consent for his exploitation;

- inclusion in Art. 149 of the Criminal Code of Ukraine of such a form of criminal act as "execution of another illegal agreement, the object of which is a person." These are actions aimed at the transfer or receipt of a person without the purpose of exploitation: donation, lease, provision for free use, transfer of a person to pay off a debt, in particular, the sale of a newborn child.

The adoption of the relevant law will strengthen criminal liability for human trafficking and bring the Criminal Code of Ukraine into line with international legislation.

Therefore, human trafficking is an unacceptable social phenomenon that must be resolutely opposed. Combating this phenomenon requires the development of effective methods both at the state and international levels. Therefore, it is necessary to carry out a more thorough implementation of the norms of international law to the legislation of Ukraine, including implementing the norms of international conventions regarding the specified problem. It is this that will make it possible to more rationally apply the current legislation to oppose people. In view of the above, it becomes clear

that Ukraine has a rather large range of problems related to countering and preventing human trafficking or other illegal transactions involving a person, starting with the detection of such an illegal act. The regulatory and legal framework formed in Ukraine to combat this type of transnational crime needs further improvement in accordance with international requirements and standards for ensuring the rights of each person and monitoring the implementation of legislation on their protection. After all, incorrect classification of criminal acts can lead to more frequent violations of the rights and freedoms of citizens.

CONCLUSIONS

Human trafficking is the exploitative recruitment, movement, transfer, harboring or obtaining of persons through the threat or use of force or other forms of coercion, kidnapping, fraud, deception, abuse of power or vulnerability, or through bribery, payments or benefits, to obtain the consent of a person who controls another person.

Human trafficking is a global problem. Its use in criminal business is one of the complex social problems of Ukrainian society. The regulatory and legal framework formed in Ukraine to combat this type of transnational crime needs further improvement in accordance with international requirements and standards for ensuring the rights of each person and monitoring the implementation of legislation on their protection.

The norm of Art. 149 of the Criminal Code of Ukraine needs improvement, as it does not provide a full understanding of the criminal phenomenon - human trafficking. Adoption of draft Law No. 5134 "On Amendments to the Criminal Code of Ukraine on Strengthening Criminal Liability for Human Trafficking" will allow strengthening criminal liability for human trafficking and bring the Criminal Code of Ukraine into compliance with international legislation.

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