

## **THE TRANSNATIONAL ENVIRONMENTAL CRIME AND ITS INVESTIGATION**

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### **S u m m a r y**

Problems of the transnational criminal activity and issues of its investigation are considered in the submitted article. The criminalistics characteristic of ecological crimes is described as well as the subject, the objects and the kinds of offenders who most frequently commit such crimes. The features of the investigation of the environmental crimes, accomplished in territory of two and more states, are inquired.

*The object of the research* - transnational crimes and the main features of their investigation. *The subject of the research* – the specificity of transnational crimes and the regularity of the process of their investigation. *The tasks* - to analyze and recognize the concept, the specificity and the features of the criminalistics characteristic of the environmental transnational crimes, to open situation conditionality of their investigation, to consider the international aspects of the cooperation between law enforcement bodies of different states.

### **The main part**

The modern criminality, getting organized, has transgressed the borders of one state and became transnational. The problem of the struggle against the transnational organized crime is especially pressing for the Russian Federation. The organized criminal activity more and more often crosses state and custom borders, and the officers of law enforcement bodies require recommendations on the issues of qualification, investigation and preventive measures of specific kinds of transnational crimes.

The consequences of environmental crimes committed in Russia often concern the interests of other countries as well and it complicates the process of revealing and investigation. Moreover, the ecological crimes are one of the rather profitable and actively developing areas of the international criminal activity. According to the estimation of the Government of the USA, the international criminal groups annually earn 22-31 billion dollars on accommodation of dangerous waste products, smuggling of the forbidden poisonous materials and using and selling natural resources that are under the protection of the law<sup>1</sup>.

The current state of the struggle against the environmental offences is also caused by the fact that there is a general procedure of investigation of these crimes. At the same time in action (practice) the varied techniques of the investigation of the specific kinds of the ecological crimes are needed to be developed.

One of such specific techniques is the methods of the investigation of the transnational environmental crimes. However, before its creation it is necessary to define, what kinds of ecological crimes relate to the transnational ones. In spite of the fact that the issue of the transnational criminality has been actively researching in criminal law sciences, there is the whole spectrum of various problems which are supposed to be solved in aggregate, probably also with the attraction of the international scientific potential.

Thus, for instance, there must be defined the concept, the essence, the genesis of the transnational crimes. In spite of the fact that criminologists have introduced this definition, different scientists interpret it ambiguously.

It is suggested (we suggest) to include into the group of the transnational crimes also such crimes that are not connected with border crossing, but which *encroach on interests* of two or more states.

Nowadays the tendency to integration in the various spheres of life is being traced. As criminality is a phenomenon of the modern world it has a trait of integration, too. It's getting more and more cramped for the criminality to exist in the frameworks of one state, and it becomes transnational. It occurs because the modern organized criminal activity is mainly determined by the economic factor - the offender's wish to earn money quickly and without much cost. Such ample evidence as the search of cheap raw material and market of labour, the reliable market channels provided with the stable demand and high solvency are typical for the various kinds of criminal organizations activity (arms traffic, human traffic, drug traffic, environmental crimes, the market of pornography and sexual service, trade of stolen cars). All these features deduce (bring out) the criminality to the international level<sup>2</sup>.

The transnational criminal organizations (in Italy, China, Russia, Japan and other countries) are formed as criminal association and are located in one state working in the several states with the auspicious market conditions.

Now the activity of such groups has got global scales and "returns the transnational criminal groups the profit which exceeds the amount of the national gross of some developing and even advanced countries"<sup>3</sup>.

The quantity of the ecological crimes which can be called transnational is not limited by the listed ones in chapter 26 "the environmental crimes" of the Criminal Code of the Russian Federation. A whole series of *corpus delicti*, looking different but concerning the problems of ecology, may be related to the international (transnational) crimes.

As an example there can be suggested the following one. The construction of industrial enterprises of harmful manufactures with using of the technologies which prove a low level of clearing and as consequence polluting environment in territories of less developed countries. And the obvious vital damage from these crimes is harmed to the population of the various states.

Here is another example. It also may be a smuggling of animals and plants which are critically endangered, and other rare and valuable natural resources being a subject of a limited transaction or scarce. Thus, for instance, there were cases when the American customs detected onboard a vessel a cargo of the alive snakes larded by cocaine, and near them a number of rare turtles among the bags of marihuana. "Every year five millions birds, 30 thousand primates, 15 millions furry animals, 12

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<sup>1</sup> Ponomarenko A. V., Kravchenko E. V. The estimation of the reality of the threat proceeding from the international criminality / translated from English. - The Vladivostok centre on studying the organized crime, 2001.

<sup>2</sup> Volchetskaja T. S. The research of the phenomena of the transnational organized crime // The issues of the struggle against the transnational organized crime (on materials of the international conference). - Kaliningrad, 2002. P. 5.

<sup>3</sup> Jablovkov N. P. The transnational criminality and its modern kinds // The modern problems of the struggle against the transnational criminality. - Krasnodar, 2000. P. 227.

millions orchids and eight millions cactuses are sold in the markets worldwide. And all this is contrary to the Convention on international trade of critically endangered kinds of flora and fauna<sup>1</sup>.

Moreover, some ecological crimes began being committed by the stable organized criminal groups with the involving of the international criminal communities into this activity that has imparted them the transnational character. The statistical data on the whole complex of environmental crimes submitted by the various regions of Russia doesn't reflect the real situation existing for today, let alone the transnational ones. The analysis of the official statistics given by the Ministry for Internal Affairs of Russia testifies that in the structure of registered crime the environmental crimes averages only 0,2 %. At the same time, the experts estimate that the latency is 95-99 %.

The international investigatory practice testifies that the organized criminal groups in the Eastern Europe, the Southeastern Asia, in the Latin America and in Africa participate in the illegal storage of wood and in the subsequent trade in wood that appreciably reduces wood stocks of the world. The Russian and Chinese criminal groups earn on illegal extraction of fish and seafood, delivering them to Japan and other countries.

Investigation of environmental crimes should have the situational basis as it is capable to optimize an investigator's activity considerably. Analyzing the conditions in the beginning of an investigation, revealing features of a concrete investigatory situation, the investigator may bring it to a typical initial situation for which the optimum list and the sequence of the necessary investigatory tools are developed by the science of criminalistics.

Besides it is necessary to notice, that investigation of transnational environmental crimes has a number of procedural and organizational peculiarities.

Thus, the transnational nature of a crime also predetermines the transnational nature of its investigation which is organized in the territory of several states. For example, if it's necessary to conduct an appropriate investigative tool such as interrogation, search, seizure, the scene examination, forensic expertise etc. in the territories of foreign states, there should be directed inquiries about legal aid to those countries. And, in its turn, it also gives more opportunities to choose a place of the conduction and to recruit specialists for the realization of investigative tools. The procedural issues of interaction between Russian law enforcement bodies with officials and law enforcement bodies of foreign states are regulated by the new criminal procedure legislation of Russia<sup>2</sup>.

Besides we believe, that the police measures also have its own specificity while investigating a transnational (environmental) crimes.

## Conclusions

In this connection, the techniques of the cooperation of the law enforcement bodies of different countries and the problems of the methods of joint tactical actions should be worked over by scientists and practical men (experts) in detail in order to make the struggle against the criminal activity of the international organized criminal groups in the sphere of ecology more effective.

Besides the preventive measures of transnational environmental offences are of a great importance and they also have the specificity. Thus, for instance, the Fish economic council was formed in the Kaliningrad region administration, and also joint meetings of experts from Lithuania, Latvia and Poland are periodically take place. The result of it is the development and the introduction of unified Rules of fishery boundary reservoirs, the introduction of the optimal terms and places of fishing, and the updating of these Rules is annually made.

The Kaliningrad region, being a frontier enclave, is one of the most favourable places for the committing of the transnational environmental crimes. That's why it seems so necessary to form a specialized Office of "Green" Public Prosecutor and to initiate an intense training of the staff specializing on investigation of environmental crimes, including transnational ones.



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<sup>1</sup> The same reference. P. 227.

<sup>2</sup> Articles 453-459 of the Criminal procedure Code of the Russian Federation.

## LITERATURE

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4. **Articles** 453-459 of the Criminal procedure Code of the Russian Federation.



### *Tarptautiniai ekologiniai nusikaltimai ir jų tyrimas*

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*Pagrindinės sąvokos: ekologiniai tarptautiniai nusikaltimai, tarptautinis nusikalstamumas, nusikaltimų tyrimas.*

### SANTRAUKA

*Straipsnyje nagrinėjami tarptautinio nusikalstamumo veiksniai ir jų padariniai. Analizuojama ekologinių nusikaltimų kriminalistinė charakteristika: objektas, subjektas ir pažeidėjų, kurie dažnai padaro tokius nusikaltimus, tipai. Aiškinamasi ekologinių nusikaltimų, padaromų dviejų ar daugiau valstybių teritorijose, ateitis.*

*Tyrimo objektas – tarptautiniai nusikaltimai ir pagrindiniai jų tyrimo ypatumai. Nagrinėjama tarptautinių nusikaltimų specifika ir jų tyrimo proceso reguliavimas. Tikslas – išanalizuoti tarptautinių ekologinių nusikaltimų kriminalistinės charakteristikos koncepciją, specifiką ir ypatumus, atskleisti tokių nusikaltimų tyrimo situacijos sąlygas, aptarti skirtingų šalių teisėsaugos bendradarbiavimo tarptautinius aspektus.*

*Skirtingų šalių teisėsaugos institucijų bendradarbiavimas, bendrų tyrimo metodikų rengimas reikalauja intensyvių mokslininkų ir praktinių darbuotojų (ekspertų) pastangų siekiant užtikrinti veiksmingą kovą su tarptautiniu organizuotu nusikalstamumu ekologinėje srityje.*

*Autorės pažymi, kad tarptautinių ekologinių pažeidimų prevencinės priemonės yra labai reikšmingos ir taip pat specifinės. Periodiškai rengiami tarptautiniai jungtiniai ekspertų iš Lietuvos, Latvijos ir Lenkijos susitikimai. Tokių susitikimų rezultatas – sukurtos unifikuotos taisyklės dėl žvejybos pasienio rezervuaruose. Šios taisyklės nuolat atnaujinamos.*

*Kaliningrado sritis, kaip pasienių apsupta teritorija, yra viena iš palankiausių vietų tarptautiniams ekologiniams nusikaltimams daryti. Todėl būtų tikslinga sukurti specializuotą tarnybą dėl tarptautinių ekologinių nusikaltimų tyrimo ir inicijuoti specializuotus pareigūnų mokymus dėl ekologinių nusikaltimų, taip pat ir tarptautinių, tyrimo.*

