Extradition Institution - Form of International Legal Assistance in Criminal Matters

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Abstract: This study presents a brief reference, in general, to international legal assistance in criminal matters, which is an extremely important field in international cooperation between states. In particular, we highlight certain approaches regard the most well-known form of judicial cooperation in criminal matters, without a doubt, namely extradition. The analysis included existing doctrinal concepts and legal provisions regarding the institution of extradition. They were taken into account several objectives, as: defining the concept of extradition; analysis of the legal nature of the extradition institution; elucidation of the forms, types and specifics of extradition in national legislation and at the same time, characterization of the institution of extradition as a form of international legal assistance in criminal matters. The used methods and procedures were determined by the emphasied interdisciplinary nature of the research subject. The investigation was based on the study of the normative and doctrinal material existing in the field, using diversified, various general and special methods in diachronic and synchronic plan. The novelty elements concern the scientific investigation of the extradition institution, of the specifics of its application. The investigation may be helpful both for academic environment and for practitioners, and will be included in a methodological-didactic material.

Keywords: criminal trial; conventions; international judicial cooperation, international crime, conviction

1. Introduction

International legal cooperation in criminal matters is the specific mode of action by which the governments of the world act by providing mutual assistance for the purpose of catching, proving the criminal activity and punishing the perpetrators of criminal acts and implicitly reducing crime, taking into account at the same time the principle of respecting the independence and sovereignty of each contracting party.

A significant fact is that "in the conditions in which international crime has gained with the opening of borders, an increasing scale, cooperation and, implicitly, international judicial assistance in criminal matters is an effective means of responding to this worrying phenomenon" (Stănoiu, 1975, p. 11). However, we can emphasize that "The legal regulation of international cooperation of states in the fight against crime has deep historical roots, starting from the emergence of the state and the law" (Волеводз, 2002, 52). However, in the doctrinal sense we can emphasize that "in general terms, international judicial cooperation in criminal matters includes: extradition, transfer of convicted persons, transfer of proceedings, recognition of judgments", etc. (Capcelea, 2013, p. 29). Thus, the historical antecedents of the extradition institution are old and numerous (Neagu, 2012, p. 53). However, understanding the

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evolution of the extradition institution presupposes a correct evaluation of the historical periods, of the economic-social, historical and political conditions that existed at a given time and developed over time (Devid, 2011, p. 120).

2. Evolutionary Elements of the Institution of Criminal Extradition

2.1. Historical Reflections on Extradition Institution

We can unequivocally mention that the extradition institution of criminals has gone through a long period of historical development. In specialized literature, it is emphasized the fact that "extradition in any form is an institution that appeared in the ancient civilization, when there is no well-defined system of rules of international law or scientific treatment (Bedi, 1996, p. 16; David, 2011, p. 120). From this perspective, in "Antiquity" and "Middle Ages", we find extradition for political opponents, enemies and traitors mainly. In this sense, we can mention as an example the Treaty between Pharaoh Ramses II and Hatusilem III in 1296 BC. Also, in the Slave Age, the extradition had a very important role as a tool of stopping the escape of slaves, who were the driving force of production" (Neagu, 2012, p. 53).

Contextually we note that the Russian author Safarov N., emphasizes that the first work on the issue of extradition is the monography of the author Saint-Aubin, entitled "Extradition et le droit extraditionnel theorique et applique", which shows that until the end of the first half of the seventeenth century, in diplomatic history, it does not signal any relative treaty, when surrendering common law criminals, while alliance treaties frequently stipulate the extradition of rebels and political criminals, which proves that the monarchs were more concerned with their personal security and the defense of their power than with the social danger which was attracted by the impunity of common law criminals (Сафаров, 2005, p. 24), according to the quoted author, referring to the indicated source. Also, "extradition was widely applied to the fugitive slaves in Greece and the Roman Empire. For example, in Greece, extradition was often applied to fugitive slaves who did not enjoy the right to asylum. Therefore, the slave owner could pursue a slave everywhere, and the authorities had to give him full support" (David, 2011, p. 120). Thus, an example in this regard, may serve the provisions of the treaty between the great prince Igor of Russia 913 – 945 and The Eastern Empire, which included in Article 2, extradition statues (Сафаров, 2005, p. 24).

Some thinkers have opposed extradition, calling it a "barbaric practice or a simple act of politeness, which goes against a person's right to live where he or she likes, as long as he or she does not abuse that right. From that point, however, most of them sought to explain the legitimacy of extradition, starting from the various conceptions of human rights sustained in the epoch in which they lived. The foundation of extradition was initially explained on the basis of theological conceptions, being considered as a right of sovereignty, conferred to kings by the divinity" (Коровин, 1976, p. 89).

The authors Boroi A. and Rusu I. emphasize that "extradition was, in the beginning, more a gesture of courtesy that a sovereign made towards another sovereign, which allowed monarchs to punish their personal enemies – refugees on the territory of another state" (Boroi & Rusu, 2008, p. 109).

It is important to point out that, "Reports on the institution of extradition to our country appear in documents dating back to the 15th century. Between 1498 and 1499, the representative of Stefan Voda the Great formulates, among other things, the following request to the princes of Lithuania which contained the following request: "*You have more Romanians who left the country of Moldova, which you have the grace to send back to Moldova, under the power of the treaty*" (Grama, 2002, p. 194). Here we also mention and emphasize that, "on April 4, 1646, Vasile Lupu Vodă concludes an

extradition treaty with S. Racoţi, the prince of Transylvania" (Aramă & Coptileț, 2012, p. 63). Respectively in "the previous Romanian legislation of the 1939 codes, there were only two texts on extradition: a) article 30 of the Constitution of 1866 regarding the extradition of political refugees, provision in the Constitution of 1923, art. 23, and b) article 6 of the Law of July 9, 1866 regarding the dissolution of the Council of State which gave extradition to the competence of the Council of Ministers" (Cernea & Molcuț, 1996, p. 227).

Therefore, we can opine that, "certain information regarding extradition dates back to the 16th century, when along with this institution, the right to asylum also existed. But as a result of the formation of absolutist feudal states and the development of diplomatic relations, as well as the development of the natural law that demanded in the name of humanity and morality the permission of the right of asylum considered as harmful for the maintenance of the relations between the peoples, favoring the institution of extradition. However, the concluded treaties admitted the extradition of political criminals and refused it to those of common law. With this character, extradition was maintained until the 19th century, when he was no admitted to political offenders" (Korovin, 1976, p. 89).

Consequently, "in Europe, extradition began to be practiced in the 19th century. The word "extradition" does not appear in any official document before 1791. Since the end of the 19th and the beginning of the 20th century, the need for extradition has been felt, so that more and more bilateral treaties concluded between states. This period enjoys a certain tendency of states to standardize and generalize extradition. The two world wars have shown that it is absolutely necessary for sovereign states to cooperate with each other, so that international organizations have been created. From these series we can name: the United Nations Organization, the Council of Europe, the European Economic Community - the future European Union etc. The appearance of the international organizations also meant the appearance of the multilateral international conventions in the matter of judicial cooperation "(Stănoiu, 1975, p. 99). However, on 13 December 1957, under the auspices of the Council of Europe, the European Convention on Extradition was adopted, which, together with its two Additional Protocols concluded in Strasbourg on 15 October 1975 and 17 March 1978, proved to be a viable multilateral international legal instrument, however, on the basis of which the member states have collaborated and are collaborating fruitfully" (Neagu, 2012, p. 62) on this given segment.

2.2. National Approaches Concerning the Institution of Extradition in Relation to International Regulations

It is noteworthy that, "The Republic of Moldova is not out of these concerns and processes, but, on the contrary, over the years, has managed to create a certain internationally image, thus becoming a member of many organizations, such as the United Nations Organization, the Council of Europe, the Organization for Security and Cooperation in Europe, the Organization of the Black Sea Economic Cooperation, the South-East European Cooperation Process, Commonwealth of Independent States" (Arseni & Țuțu, 2017, p. 20). Respectively, "interested in harmonizing its legislation and the administration of justice with European standards, the Republic of Moldova has clearly designed its vector for European integration, expressing its consent to be a party to international instruments in the field of international legal assistance. This fact increased the consolidation of its development policy of collaborative relations with all countries of the world, promoting a climate of peace and security, repressing all forms of crime and fraud of the law. The contribution of our conventional practice to the general practice of legal aid reflects and emphasizes once again the desire of the Republic of Moldova

to develop progressively its relations of legal cooperation with other states in order to defend fundamental human rights and freedoms. At the same time, the possibilities for co-operation in the field of international legal aid have diversified "and thereby unequivocally contribute" to improving co-operation between competent authorities, in particular by facilitating the examination of requests for mutual legal assistance at the European level and extradition requests" (Poalelungi, Sârcu-Scobioală & Sîrbu, 2018, p. 7).

However, it should be noted that for the Republic of Moldova, extradition is a relatively new institution that has emerged as an inevitable consequence of the state's fight against crime, and respectively the premise of its emergence was the fact that the Republic of Moldova has declared an independent and sovereign state. Regarding the sources of extradition regulations, we have special regulations on extradition enshrined in domestic law. Thus, we observe that the issues related to legal assistance in criminal matters, including extradition, are regulated by the Constitution of the Republic of Moldova[1], by the Criminal Code of the Republic of Moldova, no. 985 of April 18, 2002[2] of the Code of Criminal Procedure of the Republic of Moldova, no. 122 of March 14, 2003[3], and the Law of the Republic of Moldova no. 371 of December 1, 2006 "On international legal assistance in criminal matters"[4], as well as other relevant regulations in this regard. Taking into account the above points and based on their content, we mention that the activity of international legal assistance carried out by the "International Legal Assistance Section within the Directorate for International Legal Cooperation and European Integration of the General Prosecutor's Office is based on: a) international acts, signed and ratified by the Republic of Moldova, with multilateral or bilateral character; b) the provisions of the internal legislation of the Republic of Moldova, especially the Constitution of the Republic of Moldova, Chapter IX of the Code of Criminal Procedure, Law on the Prosecutor's Office no. 3 of 25.2016, the Law on international legal assistance in criminal matters no. 371-XVI of 01.12.2006; c) The Regulation on the organization of the activity of international legal assistance of the Prosecutor's Office of the Republic of Moldova, approved by the Order of the General Prosecutor no. 44 / 7.1 from 28.09.2018" (Nani, 2019, p. 14).

Thus, in order to solve the extradition problems, the provisions of the conventions and treaties, agreements, which were signed and ratified by the Republic of Moldova in the field of international legal assistance, are also directly applied. In this context, it should be mentioned that the Republic of Moldova has signed and ratified: the European Convention on Extradition, signed on 13 December 1957 and ratified by the Parliament of the Republic of Moldova on 14.05.1997, being in force for the Republic of Moldova on 31 December 1997; European Convention on Legal Assistance in Criminal Matters, opened for signature in Strasbourg on 20 April 1959, ratified by the Parliament of the Republic of Moldova on 26 September 1997, being in force for the Republic of Moldova on 5 May 1998; Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, signed at Minsk on 22 January 1993, ratified by the Parliament of the Republic of Moldova on 16 March 1995, being in force for the Republic of Moldova, on 26 March 1996; Moldovan-Romanian Treaty on Legal Assistance in Civil and Criminal Matters, signed in Chisinau on 6 July 1996; Moldovan-Ukrainian Treaty on Legal Assistance and Legal Relations in Civil and Criminal Matters, signed at Kyiv on 13 December 1993; Moldovan-Russian Treaty on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, signed in Moscow on 25 February 1993; Moldovan-Lithuanian Treaty on Legal Aid and Legal Relations in Civil, Family and Criminal Matters, signed in Chisinau on 9 February 1993;

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[2] Published in Official Monitor no 72-74 of 14 April 2009.
[3] Published in Official Monitor no 248-251 of 05 November 2013.
[4] Published in Official Monitor no 14-17 of 02 February 2006.

The Moldovan-Latvian Treaty on Legal Aid and Legal Relations in Civil, Family and Criminal Matters, signed in Riga on 4 April 1993; The Moldovan-Turkish agreement on legal assistance in civil, commercial and criminal matters, signed in Ankara on 22 May 1996, as well as other universal, regional and bilateral treaties on this segment (Poalelungi, Sârcu-Scobioală & Sîrbu, 2018).

3. Issues Regarding the Importance of Extradition

3.1 The Notion, Meaning and Features of Extradition

By its nature and purpose, "extradition is an act of judicial cooperation in criminal matters by which an offender is transferred from one State to another to be tried and/ or convicted of an offense or to execute the sentence established by the court" (Nistoreanu, 1991, p. 255). However, some doctrinaires have the opinion that "extradition is an institution, which directly works in the interest of the requesting state, but indirectly it serves the interests of all states, because the prevention and repression of crimes become an international concern of collective interest. Of course, extradition cannot cover all the needs of international legal assistance in combating crime, but it is a form of assistance with the most important effects" (Nicolaev & Grama, 2013, p. 1073). We also emphasize that "extradition offers the states the possibility to fulfill this requirement which represents a guarantee of the international solidarity of the states in the fight against crime" (Arseni & Țuțu, 2017, p. 20).

In addition to those noted above, it is important that "the rules on the application of criminal law in relation to space, enacted in the domestic laws of various states, cannot ensure the smooth implementation of the activity of combating crime. These difficulties generally arise in the case of crimes committed abroad and in the case of those who have committed crimes on the territory of one state and take refuge in another state. In such cases, the scope of domestic criminal law is limited or inefficient. Even when the rules of criminal law allow the prosecution of crimes committed in the country or abroad in the absence of the perpetrator, in fact, this prosecution is equivalent to impunity. Therefore, the main role of extradition is the activity of repression, designed to ensure that each state has the best conditions for the administration of justice. This requirement is met whenever the offender is tried and punished by the state whose law he/she has violated; or extradition gives states the opportunity to fulfill this requirement, obviously being a proof of international solidarity, solidarity materialized in the acceptance by each state of the obligation to hand over criminals to the justice of the state whose public order has been disturbed. In this way, the laws that provide for the unlimited criterion for crimes committed outside its territory, thus enshrining the principle of universality, make the application of its own rules conditional, giving preference to extradition. Only when extradition would not work for certain reasons, the state, on whose territory the offender took refuge, will enforce its criminal law, subsidiarily" (Nicolaev & Grama, 2013, p. 1073). "Extradition is therefore a means, which serves to achieve the application in space of that criminal law which is the most entitled to intervene" (Stănoiu & Dianu, 1992, p. 49).

If we are to define extradition, then this is "the procedure by which a sovereign state - the requested state - agrees to surrender at the request of another state - the requesting state, a person who is on its territory and who is being prosecuted or prosecuted for an offense is sought in order to serve a sentence in the requesting State. Regarding the legal nature of extradition, there are three possible systems: 1) the government system; 2) the jurisdictional system; and, 3) the mixed system (Streteanu, 2003, p. 311).

1) Government system - is characterized by the fact that the executive power and in general the political factor, has the decisive role in granting extradition. Respectively, this system was predominantly applied in previous centuries, when there was no rule of law and when the monarch or sovereign enjoyed discretion. Thus, under this system, the legal nature of extradition is that of an exclusively political act.

2) Jurisdictional system - is the system in which extradition is decided exclusively by the judiciary (Бастрыкин, 1986, p. 147).

3) Mixed system - is characterized by the fact that extradition is decided by the executive branch: the Government, the Minister of Justice or the Minister of Foreign Affairs, which occurs on the basis of a decision with the opinion of the courts. As an example, we can say that such a body invested with such a decision is: the US State Department; Council of Ministers in France; Council of Ministers in Spain; Government in Sweden; and in Canada and Italy, the Minister of Justice.

We see that, "it is considered that the executive bodies know better the concluded international agreements and the assumed international obligations, being the ones that participated in their negotiation and signing. In this system, extradition has a mixed legal nature - being at the same time a political and legal act. Extradition, as a judicial procedure, differs from other measures with similar effects such as: expulsion; readmission; surrender to an international criminal court" (Theodoru, 2013, p. 825).

It is to emphasize that "extradition is a way to achieve international legal assistance in criminal matters, an important and effective act of solidarity and mutual aid of the states in the fight against the criminal phenomenon faced by each of them (David, Stamatin & David, 2013, p. 19). However, the foundation of extradition lies in the common interest of the peoples and in the cooperation of the states in the fight against crime when a criminal takes refuge in another state, the danger increases there too, and it has no interest in tolerating this. Non-extradition would create room for impunity and for others, which would endanger its security, and would be a continuing cause of international misunderstandings. The institution of extradition appears as a beginning of international solidarity – solidarity springing from the mutual interest of each nation to hand over the perpetrators to the justice of the state whose public order has been disturbed" (Barbu, 1982, p. 123). However, "extradition appears to be a safe way to intimidate criminals who are hoping to find asylum in another country". In this way, extradition is a means by which the requested state executes its own acts of justice. In the collaboration of states in the fight against the criminal phenomenon, extradition plays a special role, being the form of legal assistance to which the states most often resort in the activity of prevention and repression of crimes. Extradition is considered the most vivid expression of legal aid in the field of criminal law. However, the certainty that the flight cannot ensure the evasion of criminal responsibility, is an indispensable condition for the effectiveness of the criminal precept" (Stănoiu, 1975, p. 96). We consistently point out that "extradition is an institution that operates directly in the interest of the requesting state, but indirectly, it serves the interests of all states, because the prevention and repression of crimes become an international concern of collective interest. Of course, extradition cannot cover all the needs of international legal assistance in the fight against crime, it is a form of international criminal assistance with the most important effects. Extradition includes the carrying out by the competent bodies of a Contracting State of actions, the execution of which is necessary for the criminal investigation, the judicial investigation of the criminal case or for the execution of the court sentence (David, 2008, p. 74).

As we have previously pointed out, extradition is therefore a means that serves to achieve the application in space of that criminal law which is the most entitled to intervene. Speaking of the definition of extradition, we mention that extradition is the act by which the state in whose territory a person pursued by a criminal or convicted person in another state has taken refuge refers to the request of the state concerned, that person to be tried or to serve the sentence for which he was sentenced".

Following the definition pointed out above, "the following features, that highlight the specific aspects of the extradition institution, emerge:

- Act of sovereignty that intervened in the relations between two states.
- Jurisdictional act requested and granted exclusively for the purpose of repression, the extradited person - being a defendant or a criminal convict.
- Act of international legal assistance" (Stănoiu & Dianu, 1992, p. 49).

Thus referring to the mixed legal nature of extradition, we can specify that it is not a simple act of legal assistance, but is at the same time an act of sovereignty and a judicial act.

Numerous and different definitions of the extradition institution have been given in the specialized legal literature. "The differences between these definitions stem from the fact that, in formulating them, the same elements were not considered as essential features, including or excluding some of them. These differences resulted in conflicting opinions regarding the place of the crime, at the request of extradition but also at the competence of the requested state. One difference is that some authors consider extradition as an act, others, on the contrary, substitute the idea of act with that of contract, there are also authors who consider that extradition is a procedure that allows a state to obtain from another state the extradition of a defendant or convicted refugee on its territory" (Moldovan, 2004, pp. 69-70).

But in order not to distort the charm of the notions given in the specialized literature, we take as a basis the notion given "at the Xth Congress of the International Criminal Law Association, held in Rome between September 29, 1996 and 5 October 1969. Here has been adopted the following definition – "*Extradition is an act of interstate legal assistance in criminal matters aimed at the transfer of an individual prosecuted or convicted in the field of judicial sovereignty of one state to another*". This definition also highlights the character of the act of assistance and the act of sovereignty of extradition (Melnikov, 2003, p. 142). We can also conclude that "extradition finds its sources of regulation in conventions or treaties, in declarations of reciprocity and in provisions of domestic law, and in their absence – in international usage" (Rusu, et al, 2012, p. 42).

4. Incursions regarding Extradition in the Order of National Regulations

From the beginning, we observe the fact that "the main role of extradition is obviously to ensure that the best conditions for justice are achieved in each state in the activity of repression. Thus, through its peculiarity and finality, extradition offers the states the possibility to fulfill this requirement, representing a guarantee of the international solidarity of the states in the fight against crime" (Arseni & Țuțu, 2017, p. 20).

The extradition procedure can be classified into two groups: if the Republic of Moldova is a requesting state and if the Republic of Moldova is a requested state (Dolea, et al., 2005, p. 941). From the point of view of the first case, the Republic of Moldova may apply to a foreign state with a request for extradition of the person in respect of whom the criminal investigation is being carried out in connection with the

offenses for which the criminal law provides a maximum sentence of at least one year in prison or another more severe sentence or in respect of which a sentence of at least 6 months of imprisonment has been imposed in the case of extradition for execution, unless the international treaties provide otherwise[1]. It is appropriate that this general rule may be different, depending on the international treaty if it has other provisions. Because, according to art. 4 para. (2) of the Constitution of the Republic of *Moldova "If there are inconsistencies between the pacts and treaties on fundamental human rights to which the Republic of Moldova is a party and its domestic laws, international regulations have priority"*[2].

"The extradition request can be submitted in two ways depending on whether the person is being prosecuted or convicted" (Dolea, et al., 2005, p. 941). Article 541 para. (3) stipulates that "if the person whose extradition is requested is being prosecuted, the competent authority to examine all the necessary materials and to submit the extradition request is the General Prosecutor's Office"[3]. The provisions of art. 542 of the national criminal procedure law insert the requirements for the extradition request and the annexed documents. Congruent to the para. (2) of the stated article "the extradition request must contain: a) the name and address of the requesting institution; b) the name and address of the requested institution; c) the international treaty or reciprocity agreement on the basis of which extradition is requested; d) the name, surname and patronymic of the person whose extradition is requested, information regarding the date, place of birth, citizenship and place of domicile; e) description of the facts imputed to the person, indication of the place and date of their commission, their legal qualification, information regarding the caused material damage; f) the place of detention of the person in the requested State"[4], as well as other aspects inserted in the content of the mentioned article.

However, in addition, some doctrinaires point out that "upon request for extradition, certain documents are presented, as a rule, they can be an arrest warrant and another document that has the appropriate legal force, a document can also be issued by the competent authorities. Judgments must be enforceable, that is, definitive. The documents must also indicate the text of the criminal law regarding the deed that gave rise to the adoption of certain decisions. Based on international treaties, the Republic of Moldova has certain obligations in case of extradition in certain situations, it is obliged to submit the extradition request, attaching or presenting certain evidence that confirms the probability of committing the crime" (Dolea, et al., 2005, p. 942). Therefore, we can note that "in addition, at the request of the competent body of the requested state, the Prosecutor General's Office transmits any additional information that could serve as evidence in confirming the accusation against the person whose extradition is requested" (Nicolaev & Grama, 2013, p 1091).

Respectively, the author Dolea I. mentions that "the extradition of the person can be requested and, in the situation, when against it a warrant has been issued for pre-trial detention or a warrant for the execution of a prison sentence or for which a security measure has been applied" (Dolea, 2020, p. 1366).

Referring to the second way, we emphasize that this "is extradition in cases where the Republic of Moldova has been requested. A foreign national or stateless person who is being prosecuted or convicted in a foreign state for committing a criminal offense may be extradited. Also, the foreign national or stateless person who has been convicted in a foreign state for committing an offense may be extradited for the purpose of enforcing the rendered judgment for the committed act. For the extradition of the person there are certain conditions established by the criminal procedure law, so it is mandatory

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[2] Published in Official Monitor no. 78 of 29 March 2016.
[3] Published in Official Monitor no. 248-251 of 05 November 2013.
[4] Published in Official Monitor no. 248-251 of 05 November 2013.

that the act for which extradition is requested be recognized in the Republic of Moldova as a crime and provide a maximum penalty, within the meaning of criminal law, of at least 1 year in prison. The extradition of the convict can take place only if he/she has to serve a custodial sentence of at least 6 months of detention" (Dolea, et al., 2005, p. 942).

However, all aspects related to the institution of extradition in detail are included in Section 2 of Chapter IX of the Code of Criminal Procedure of the Republic of Moldova,[1] but also Section 1 and 2 of Chapter IV of Law no. 371 of 01 of 2006, "On international legal assistance in criminal matters"[2]. However, "for the purpose of the correct and uniform application of the legislation by the courts governing extradition on 28 May 2012" (Nicolaev & Grama, 2013, p. 1082), the Plenum of the Supreme Court of Justice of the Republic of Moldova approved Decision no. 3, regarding the judicial practice of applying the legislation governing extradition[3]. Respectively, "the algorithm for performing the extradition procedure involves performing by the requesting state and the requested state the following actions: establishing the legal basis on which extradition is to be requested and resolved (art. 541 CPC, art. 71-72 of the Law of 01.12. 2006); the way of connection in the matter of requesting and solving the extradition (art. 532 CPC, art. 7 of the Law of 01.12.2006 or according to the international treaty); drawing up and sending by the requesting state the extradition request in compliance with its conditions of form and content and with the annexing of the necessary documents (art. 542 and 5492 CPC, art. 50 of the Law of 01.12.2006 and the international treaty); compliance with the conditions regarding the applicable languages and certification of translations (art. 542 para. (3) CPC, art. 9 of the Law of 01.12.2006 and the respective provisions of the international treaty); the procedure for solving the extradition request by the authorities of the requested state (art. 544-545 CPC, art. 53-54, art. 58-63 of the Law of 01.12.2006); the additional request from the requesting State of the information necessary for the settlement of the extradition request (art. 62 of the Law of 01.12.2006 and the respective provisions of the international treaty); the arrest of the person for extradition by the requested State (art. 547 CPC, art. 55-57 of the Law of 01.12.2006 and the respective provisions of the international treaty); the judgment of the declared appeal against the decision of the court on extradition (art. 544 para. (9) CPC and art. 63 para. (8) of the Law of 01.12.2006); surrender of the extradited person (art. 549 CPC, art. 65-68 of the Law of 01.12.2006 and the respective provisions of the international treaty); the transfer of objects that may be relevant as evidence in the criminal case for which extradition was requested, the transfer of income that came from the crime of extradition and of objects that were in the person's possession at the time of arrest or were discovered later (art. 550 CPC and the respective provisions of the international treaty); the solution of the re-extradition to a third state (art. 543 CPC, art. 70 of the Law of 01.12.2006 and the respective provisions of the international treaty); the solution of the transit of an extradited person (art. 5491 CPC, art. 69 of the Law of 01.12.2006 and the respective provisions of the international treaty); solving the problem regarding the expenses related to the extradition procedure (art. 82 of the Law of 01.12.2006 and the respective provisions of the international treaty)" (Nicolaev & Grama, 2013, p. 1082-1083).

"The extradition of a person by evading the extradition procedure constitutes fraud on extradition, called in doctrine, as well as an apparent extradition" (Moldovan, 2004, p. 170). "Fraud on extradition is also prohibited by the legislation of the Republic of Moldova. Thus, according to art. 83 of the Law of 01.12.2006, the surrender of a person by expulsion, readmission, return to the frontier or by another

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[3] In the same sense see: http://jurisprudenta.csj.md/db_hot_expl.php.

additional measure is prohibited whenever it is intended to violate the rules of extradition" (Nicolaev & Grama, 2013, p. 1083).

Conclusions

It is consistent that with the development of relations between states, the institution of extradition is also improved, the number of treaties in which the circle of persons who can be extradited is specified increases, the criteria and grounds for extradition are specified. In this context, in the field of extradition, bilateral treaties have been largely replaced by multilateral ones. Thus, on the whole, the institution of extradition has developed in accordance with the historical tendency of democratization and defense of human rights.

Therefore, taking into account the above, the Republic of Moldova has signed and ratified numerous universal, regional and bilateral treaties on extradition, thus expressing its consent to be a party to almost all international instruments in the concerned matter, namely that this has obviously strengthened its policy of broadly developing relations with all countries of the world, promoting a climate of peace and security, and cracking down on all forms of transnational crime.

Taking note of the above, we observe that extradition, before being a procedure, is an act of legal constraint to which the extradited person is subject. This form of international legal assistance in criminal matters, being also considered an act of collaboration and legal assistance between states, namely an act which, in order to achieve its finality, needs the consent of the states. It is natural that the main source of extradition regulation should be found in conventions, treaties or declarations of reciprocity. It is appropriate that in the case of crimes committed on the territory of a state by offenders who then managed to leave that territory, taking refuge in other states or in the case of crimes committed abroad, the application of criminal law is not possible without cooperation between states, cooperation to ensure the extradition of offenders to the requesting State for trial.

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