DOI:10.33766/2524-0323.95.95-106

УДК 343.43

Chirita V., Ph.D, Associate Professor, Associate Professor Chair of Penal Law and Criminology Academy, "Stefan cel Mare" of the Ministry of Internal Affairs of the Republic of Moldova (Chisinau, Republic of Moldova)

e-mail: valentin-chirita@yandex.ru

ORCID iD: <https://orcid.org/0000-0002-7711-022X>

TAKING HOSTAGES AND SOME ACTS AGAINST THE PERSON'S FREEDOM IN THE PENAL LEGISLATIONS OF FOREIGN STATES

The facts of hostage-taking are recognized throughout the civilized world as prejudicial. Current legislation in most states provides for criminal liability for the offence of hostage-taking, abduction and illegal deprivation of liberty. In the national laws of some states, the concepts of «hostage-taking», «kidnapping of a person», «illegal deprivation of liberty» is not always differentiated.

Thus, in some states, in addition to the responsibility for the abduction of a person and the illegal deprivation of liberty, there is also the independent responsibility for taking hostages. In the penal legislation of other states, on the contrary, the offences related to the abduction of a person include in themselves the taking of hostages.

Keywords: hostage-taking, abduction, unlawful deprivation of liberty, aggravating circumstances, penal legislation, criminal liability.

Formulation of the problem. Attacks on public security, as well as those on human liberty, represent a real threat to society as a whole. Unfortunately, more and more individuals are solving their problems by being taken hostage, abducted or illegally deprived of their liberty. The person becomes, in this situation, a simple „currency” in achieving criminal purposes.

The value of a person, of his life, of his health, and of his physical liberty, is becoming more and more insignificant. These offences are a pressing problem due to the fact that they, because of the danger they pose, the forms of manifestation and the effects they produce, often go beyond the framework of a country's internal law and pose a threat to the entire international community. It is for these reasons that most foreign states criminalize such acts in their national penal codes.

Analysis of the latest achievements and publications. In the writing of this scientific article were studied some doctrinal publications, such as the works of the authors Bobotov S. V., Zhigachev I. Ju., Krashennikova N. A. and others.

Also, as points of reference and comparison in the elaboration of this scientific article served the provisions of national criminal law and penal legislation of some countries from Anglo-Saxon and Roman-Germanic legal systems such as: Ukraine, Romania, USA, China, Germany, France, Spain, Switzerland, Denmark, Sweden, Estonia, Russia, Azerbaijan, Belarus, Kazakhstan, Tajikistan etc.

Purpose of the article. The purpose of this scientific approach is the thorough investigation of the issue related to the incrimination in the penal legislation of some foreign states of the offence of hostage-taking as well as other similar facts.

Also, as a goal was drawn the study of the positions of the states vis-à-vis the issue of liberation from criminal responsibility of the persons who committed such acts as kidnapping or taking hostages and the amount of the criminal punishment for committing any such crimes. At the same time, it was proposed also to submit some recommendations for amending the penal legislation of the Republic of Moldova, especially the offence of hostage-taking and the abduction of a person.

Presenting main material. Analyzing the penal legislation of the United States of America, with the Anglo-Saxon legal system, it should be mentioned first of all that specific for the given penal legislation is the existence of 53 legislative systems in force, namely: the federal one; of the 50 states; of the Federal District of Columbia and the Free State of Puerto Rico [1, p. 8].

U.S. federal law provides for criminal liability for kidnapping. Pursuant to §1201 of the U.S. Code of Laws (Title 18), a person who illegally captures, deprives of liberty, abuses by deception or violence, detains a person for the purpose of receiving a ransom or remuneration (unless such actions are committed by the parents), shall be punished by imprisonment for an indefinite period or by life imprisonment. According to § 1202 of the U.S. Code of Laws provides for criminal liability in the form of a fine of up to \$ 10,000, or imprisonment for up to 10 years for a person who receives certain sums of money, property, or only some of them possess or dispose of them if these goods have ever been transferred for redemption or remuneration in connection with the commission of the offense under § 1201 of the United States Code, and the perpetrator is aware of this fact with certainty [2, p. 418]. According to § 1751 of the U.S. Code, separate criminal liability is provided for the murder, abduction or attempt on the life of the USA President or a member of the President's apparatus, which does not require a qualification under § 1201 of that Code [2, p. 419]. From here, we come to a conventional conclusion (thanks to the specifics of U.S. law) that US federal penal legislation does not differentiate between the responsibility for kidnapping a person and that for taking hostages.

The criminal legislation of the People's Republic of China, which can rightly be called socialist, based on the Romanian-German legal system, contains quite specific regulations regarding criminal liability for hostage-taking. Article 120 of Chapter II „Crimes against public security” of the Criminal Code of the PRC provides for criminal liability for the organization, lead and active participation in terrorist organizations. In case of the existence of aggravating circumstances provided by art. 120 CP of the PRC, followed by murder, explosion, hostage-taking, etc., the punishment is applied for committing several criminal acts [3, p. 285]. Chapter IV „Crimes against the person and the democratic rights of citizens” of the Criminal Code of the PRC (art. 239) provides a separate rule on criminal liability for the abduction of a person (including the abduction of a newborn) for material purposes or for taking a person as a hostage. The offense is punishable by imprisonment for a term of ten years and more or life imprisonment. As complementary punishment may be applied a fine or a confiscation of property. The cause of death or the murder of a person abducted or taken hostage entails the death penalty [3, p. 331].

Article 240 of the criminal code of the PRC stipulates criminal liability for abduction committed by deception for the purpose of selling a woman or a child. In case of aggravating circumstances (causing the death or murder of the person), the death penalty can be applied [3, p. 339].

The analysis of the criminal legislation of the People's Republic of China also shows that the criminal liability for kidnapping and hostage-taking is not differentiated, and the facts are contained in a single composition.

An opposite approach to this problem is found in the penal legislation of the Federal Republic of Germany. The criminal code, in Chapter XVIII „Crimes against the freedom of the person“, provides for separate criminal liability for such crimes as the abduction of a person (§ 234), the abduction of a minor (§ 235), the illegal deprivation of liberty (§ 239), the abduction of a person for material purposes (§ 239a) and hostage-taking (§ 239b). For the purposes of § 239b CP of the FRG, taking hostages is the capture or detention of a person, accompanied by the danger of causing death, serious bodily injury or deprivation of liberty of the person taken hostage for more than one week, in order to force a third party to commit or refrain from committing any action as a condition for the release of the hostage. According to § 234 CP of the FRG „Abduction of a person“, the offender is considered the person who, by applying violence, threats or deception, abducts another person, to put him in a state of helplessness, in conditions of slavery or to hand it over to the military of foreign armies or similar services [4].

French penal legislation provides for liability for the abduction or unlawful detention of a person (art. 224-1 CPF) and for the illegal arrest or deprivation of liberty (art. 341 CPF) [5].

The Spanish criminal code, in Title VI „Crimes against the freedom of the person“, stipulates criminal liability for unlawful persecution and abduction of a person.

Article 163 of the Spanish criminal code provide criminal liability for illegal deprivation of liberty and provides for a sentence of imprisonment from four to six years. If the deprivation of liberty lasted more than 15 days, the perpetrator shall be punished by imprisonment for a period of five to eight years. In accordance with art. 164 CPS, for the abduction of a person accompanied by requirements to perform certain actions as a condition for his release, the penalty of imprisonment from six to ten years is applied [6].

Swiss penal legislation provides for criminal liability for the crime of unlawful deprivation of liberty and abduction of a person (art. 183 CPE), as well as for the crime of hostage-taking (art. 185 CPE). Both criminal norms are contained in Title IV „Crimes against liberty“. The maximum punishment for the crime of taking hostages with aggravating circumstances is life imprisonment [7].

In accordance with § 261 of the Danish Criminal Code (Chapter 26 „Offenses against the person's liberty“), any person who unlawfully deprives another person of liberty (point 1) shall be punished by imprisonment for a term not exceeding four years; and if he is illegally deprived of his liberty in order to obtain material gain or if the deprivation of liberty has been prolonged, or if the person has been illegally detained as a person with mental disabilities, or if he has been recruited into a foreign intelligence service, or if she has been taken prisoner, or in any situation of dependency in any foreign state (point 2), shall be punished by imprisonment for a term exceeding twelve years.

Danish penal legislation lacks separate liability for hostage-taking, but there is the offense of capturing the airship, which stipulates the maximum penalty - life imprisonment [8].

The Swedish criminal code contains the crime of kidnapping a person (§ 1), which is punishable by imprisonment from four to ten years or life imprisonment; and the offense of unlawful deprivation of liberty (§2), which is punishable by imprisonment for a term of one to ten years [9].

The Estonian criminal code, in the Chapter „Crimes against liberty”, provides for criminal liability for the human trafficking (art. 133), kidnapping a person (art. 134), hostage-taking (art. 135), illegal deprivation of liberty (art. 136) [10].

The Criminal Code of Romania of July 17, 2009 stipulates liability for the crime of illegal deprivation of liberty. This is included in the article 205, which is part of Title I „Offenses against the person”, Chapter VI „Offenses against the freedom of the person” [11].

Thus, the analysis of the penal legislations of the above-mentioned states demonstrates the existence of a series of legal norms that provide for criminal liability for acts related to hostage-taking. In most cases, these components of the crime are contained in chapters or titles on crimes against liberty. At the same time, it should be noted that an unequivocal treatment of these facts is missing. Such a situation is conditioned both by the existence of divergent provisions in different legal systems, and by the particularities of the legislations of each state viewed separately.

The penal legislations of most member states of the Commonwealth of Independent States traditionally provide for criminal liability for offences against public security and the freedom of the person, such as: abduction, illegal deprivation of liberty, hostage-taking, illegal detention in psychiatric institution, trafficking in human beings, etc.

At the same time, the above-mentioned components of offenses are usually placed by the legislator in various chapters or titles of national criminal codes, depending on both the generic legal object of the offense and other essential circumstances, such as the legal traditions of a concrete state etc.

For example, the components of criminal offenses for the abduction of a person, unlawful deprivation of liberty and unlawful admission to a psychiatric institution are usually contained in the chapters of the Criminal Codes on Crimes against the freedom, honor and dignity of the Person (Chapter 3 of Special Part CP of the Republic of Moldova, Chapter 17 CP of the Russian Federation, Chapter 19 CP of the Republic of Azerbaijan, Chapter 17 CP of the Republic of Tajikistan, etc.).

The Criminal Code of the Republic of Belarus, in Chapter 22 „Crimes against the freedom, honor and dignity of the person”, together with the abduction of a person (art. 182 CP of the RB) and illegal deprivation of liberty (art. 183 CP of the RB), also provides the crime trafficking in human beings (art. 181 CP of the RB) [12]. Such a crime is also contained in the Criminal Code of the Republic of Moldova (art. 165 „Trafficking in human beings” from Chapter III „Crimes against the freedom, honor and dignity of the person” and art. 206 „Trafficking in children” from Chapter VII „Crimes against the family and minors” of the Special Part).

The components of crimes related to hostage-taking, in national penal legislation, are usually placed in the chapters on crimes against public security and public order

(Chapter 13 of the Special Part CP of the Republic of Moldova, Chapter 24 CP of the Russian Federation, Chapter 25 CP of the Republic of Azerbaijan, Chapter 9 of the Special Part CP of the Republic of Kazakhstan, etc.).

In the Criminal Code of Ukraine, the crime of hostage-taking (art. 147) is found in the Chapter „Crimes against the freedom, honor and dignity of the person”, along with the abduction of a person or illegal deprivation of liberty (art. 146), trafficking in human beings human rights (art. 149) and illegal hospitalization in a psychiatric institution (art. 151). Specific to the criminal legislation of Ukraine is the introduction of a separate offense of taking as a hostage the representative of public authorities or the collaborator of law enforcement bodies (art. 349); the respective juridical-criminal norm (being special in relation to art. 147 CPU) is placed in Title XV „Crimes against central public authorities, local public administration bodies and citizens’ authority” [13]. An analogous situation is attested in the Criminal Code of Georgia, where the components of crimes of illegal deprivation of liberty (art. 143) and hostage-taking (art. 144) are found in the same chapter „Crimes against liberty and human rights” [14].

Offenses related to the illegal actions of employees of law enforcement bodies, aimed, for example, at the illegal detention or arrest of a person, are usually placed in the chapters on crimes against justice (Chapter 14 of the Special Part PC of the Republic of Moldova, Chapter 31 CP of the Russian Federation, Chapter 34 CP of the Republic of Belarus, Chapter 16 CP of the Republic of Uzbekistan, etc.).

In most CIS member states (Moldova, Russia, Azerbaijan, Kazakhstan, Tajikistan, etc.) criminal liability is increased for homicide with abduction or hostage-taking, which is a qualified circumstance of intentional homicide.

In art. 115 par. (2) point 3 of the Criminal Code of Ukraine provides for increased criminal liability for the killing of a hostage [13]. Georgia’s penal code provides for liability for hostage-taking, but the abduction of a person is missing. Such a qualifying sign applicable to murder (murder committed with abduction or hostage-taking) is missing in the criminal law of the Republic of Uzbekistan [15]. We consider that the position of the majority of the legislators from the CIS member states regarding the establishment of an increased responsibility for the murder committed with the abduction or taking of the person as a hostage is grounded (art. 145 par. (2) letter f) CP of the Republic of Moldova; art. 105 par. (2) let. v) CP of the Russian Federation; art. 120. 2. 9. CP of the Republic of Azerbaijan; art. 139 para. (2) point 4 of the Criminal Code of the Republic of Belarus; art. 104 par. (2) let. g) CP of the Republic of Tajikistan etc.). This position is argued that, in the process of abducting or taking hostages, the perpetrator may kill other persons, including persons attempting to prevent the offense of hostage-taking or abduction, as well as employees of law enforcement agencies, which have direct obligations regarding the release of victims.

The criminal law of the Republic of Belarus provides for a separate liability for hostage-taking (art. 291 CPB) and abduction of a person (art. 182 CPB). The taking of hostages, according to the Belarusian Criminal Code, means: „Taking or detaining a person as a hostage, accompanied by danger to life or physical health, or subsequent detention of a person in order to force the legal or physical or a group of persons to commit or refrain from committing any action as a condition for the release of the hostage” [12]. The

aggravating circumstances of the given crime are similar to those provided by art. 280 of the Criminal Code of the Republic of Moldova, except for the aggravating circumstance – „Hostage-taking committed to order”.

Article 182 of the Criminal Code of the Republic of Belarus provides for criminal liability for the abduction of a person, which means the open or secret capture of a person contrary to his will or will, committed by deception or accompanied by violence, if the signs of the crime provided by art. 291 CPB (hostage-taking) [12]. Unlike the criminal legislation of the Republic of Belarus, the Criminal Code of the Republic of Moldova, in addition to liability for abduction of a person (art. 164 CP), also provides separate liability for abduction of a minor by close relatives (art. 164¹ CP).

The Criminal Code of Georgia, in Chapter 23 „Crimes against liberty and human rights”, contains articles providing for liability for unlawful deprivation of liberty (art. 143); hostage-taking (art. 144); illegal detention or arrest (art. 147) and illegal hospitalization in a psychiatric institution (art. 149). The responsibility for kidnapping a person in Georgia's criminal law is missing. In accordance with art. 411 para. (2) let. z) CP of Georgia „Violation of the rules of international humanitarian law during armed conflicts”, is also responsible for hostage-taking. This article can be found in the chapter „Crimes against peace, human security and humanitarian law”. Georgia's criminal law also establishes liability for hostage-taking for terrorist purposes (art. 329 „Terrorism”, Chapter 38 „Crimes against the State”) [14].

In the criminal law of the Republic of Kazakhstan, offenses of abduction of a person (art. 125), illegal deprivation of liberty (art. 126), illegal admission to a psychiatric institution (art. 127) and recruitment of persons for sexual exploitation or any other types of exploitation (art. 128) are included in Chapter 1 „Crimes against the person” of the Special Part of the Criminal Code. Liability for hostage-taking (art. 261) is provided in the Chapter „Criminal infraction against public security and public order”, and liability for illegal detention or arrest (art. 414) - in the Chapter „Criminal infraction against justice and procedure of execution of punishments” [16].

The legislator of the Kyrgyz Republic placed the crime of hostage-taking (art. 227 CP of the RK) in Chapter 24 „Crimes against public security”. The Kyrgyz Criminal Code provides for such offenses as: abduction of a person (art. 123); recruitment of persons for exploitation (art. 124) and illegal deprivation of liberty (art. 125). These are found in Chapter 17 „Crimes against the freedom, honor and dignity of the person” [17].

The Criminal Code of the Republic of Tajikistan, in Chapter 17 „Offenses against the freedom, honor and dignity of the person”, provides for criminal liability for the abduction of a person (art. 130); illegal deprivation of liberty (art. 131); recruitment of persons for sexual exploitation or any other form of exploitation (132); illegal hospitalization in a psychiatric institution (art. 133). In the Chapter „Crimes against public security” is found the crime of hostage-taking (art. 181); in the Chapter „Crimes against justice” is placed the crime of illegal detention or arrest (art. 358); and the Chapter „Crimes against the peace and security of mankind” provides for criminal liability for intentional violation of the rules of international humanitarian law during the armed conflict and for hostage-taking (art. 403 par. (2) let. j) CP of RT) [18].

The penal legislation of the Republic of Uzbekistan, in the Chapter „Crimes against the freedom, honor and dignity of the person”, stipulates the responsibility for the recruitment of persons for sexual exploitation or any other kind of exploitation (art. 135); abduction of a person (art. 137); illegal deprivation of liberty (art. 138). The Chapter „Crimes against the Peace and Security of Mankind”, under Article 155 „Terrorism”, establishes the responsibility for hostage-taking in order to strain international relations, provoke a war or destabilize the situation in the Republic of Uzbekistan. The crime of illegal detention or arrest (art. 234) can be found in the Chapter „Crimes against justice”. The taking of hostages (art. 245) is treated separately, in the Chapter „Crimes against public security and public order” [15].

Unevenly, the issue of the release of criminally responsible persons who have committed crimes that threaten the physical freedom of the person and public security is solved in the national laws of the studied states.

Thus, the penal legislation of a number of CIS member states (Russia, Kazakhstan, Tajikistan, etc.) provide for the possibility of release from criminal responsibility of persons who have committed such acts as kidnapping or taking hostages. It is a so-called repentance, when the person who abducted or took a person hostage voluntarily releases himself.

For example, the note in art. 206 „Hostage-taking” of the Criminal Code of the Russian Federation stipulates: „The person who, voluntarily or at the request of the representatives of the authorities, released the hostage shall be released from criminal liability if his actions do not contain another component of the crime”. Similar provisions are attested in the note to art. 126 of the Criminal Code of the Russian Federation „Abduction of a person” – „The person who voluntarily released the abducted person is released from criminal liability if his actions do not contain another component of crime” [19]. The Criminal Code of the Republic of Belarus provides for the possibility of release from criminal liability only in case of committing the crime of hostage-taking.

The criminal laws of the Republic of Moldova, Ukraine, the Republic of Uzbekistan, unlike the laws of the above-mentioned states, do not provide for the possibility of release from criminal liability for taking hostages or abducting a person. The punishment for the crime of hostage-taking in most CIS member states is quite severe. A lighter sentence is usually provided for committing the crime of unlawful deprivation of liberty. The death penalty for the crime of hostage-taking with particularly aggravating circumstances is provided for in the Criminal Code of the Republic of Tajikistan. The same Code stipulates the maximum prison sentence for taking hostages and kidnapping a person – for twenty years, and for illegal deprivation of liberty – for ten years.

The criminal code of the Russian Federation provides for the taking of hostages the maximum punishment with imprisonment for a term of twenty years or life imprisonment, for the abduction of a person – for a term of fifteen years and for illegal deprivation of liberty – for a term of eight years.

The maximum prison sentence for hostage-taking under the Georgian Penal Code is eighteen years. The penalty of imprisonment of up to fifteen years for taking hostages and abducting a person is provided by the criminal legislation of the Republic of Azerbaijan, Belarus, Kazakhstan, Uzbekistan, etc.

Drawing a parallel with the Anglo-Saxon system of law (common law), we mention that in this segment, the penal legislation of the United States of America is quite strict.

So, pursuant to § 1201 of the U.S. Code of Laws (Title 18), a person who illegally captures, deprives of liberty, abuses by deception or violence, detains a person for the purpose of receiving a ransom or remuneration (unless such actions are committed by the parents), shall be punished by imprisonment for an indefinite period or by life imprisonment [20].

According to the Criminal Code of the Republic of Moldova, the crime of hostage-taking is punishable by imprisonment for a maximum term of fifteen years; the abduction of a person is punishable by imprisonment for a maximum term of thirteen years; and illegal deprivation of liberty – with imprisonment for a maximum period of twelve years [21].

Conclusions. Criminal liability for hostage-taking and that for other similar offenses have a series of tangents in the penal legislations of the number of states.

They are placed by the legislator in different chapters or titles of the national criminal codes, depending on both the generic legal object of the respective crimes and other circumstances, such as the legal traditions of a concrete state, the divergences of the legal systems, etc.

Thus, the punishment for committing the offence of hostage-taking and kidnapping a person in most foreign states is quite rough. A lighter punishment is usually provided for committing the crime of unlawful deprivation of liberty. The death penalty for the offence of hostage-taking with particularly aggravating circumstances is provided by the Criminal Code of the Republic of Tajikistan.

Also the act is punished severely according to US criminal law, which provides for life imprisonment. And a lighter sentence, with imprisonment of up to fifteen years, for taking hostages committed with aggravating circumstances is provided by the penal legislation of the Republic of Azerbaijan, Belarus, Kazakhstan, Uzbekistan, Ukraine, Moldova, etc.

At the same time, the national criminal codes of some states often provide for criminal liability for a series of facts that are missing in the laws of other states, respectively there is a lack of a uniform interpretation of the concept of „hostage-taking”.

Therefore, in the context of divergent legislative treatments in various states of the offence of hostage-taking and abduction of a person, and to create conditions for clear delimitation of these criminal acts, it is necessary to amend the Criminal Code of the Republic of Moldova by reformulating the wording of art. 280 para. (1) CP of the RM (Taking hostages) as follows: *„Capture, i.e. the action characterized by illegal possession accompanied by the restriction of the person's freedom, or detention, i.e. the action characterized by the illegal deprivation of the possibility of leaving the person's place, as a hostage, carried out against his will, openly or secretly, with or without the direct application of physical or mental violence to the hostage, and the threat of murder, injury to bodily integrity or health, or further detention of the person in this capacity for the purpose of forcing the state, international organization, legal or natural person or group persons to commit or refrain from committing any action as a condition for the release of the hostage”*.

At the same time, we propose the modification of the wording of art. 164 para. (1) CP of the Republic of Moldova (Kidnapping of a person), by completing it, after the words "*Kidnapping of a person*", with the following text: *that is, the action characterized by the illegal captivity of a person, against his will, carried out openly or secretly, with or without the application of physical or mental violence, accompanied by his displacement from his place to another place, where he is deprived of liberty*".

Such a definition would be not only a basic one for the given composition of the offence, but also a point of reference for making a fair delimitation of the offence of hostage-taking, because it would not contain a special purpose. By opposition, the special purpose indicated in the provision of art. 280 of the Criminal Code is referred to the main special legal object - public security, and not the freedom of the person, as in the case of abduction.

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Стаття надійшла до редколегії 12.09.2021

Кирица В., доктор права, доцент, доцент кафедри уголовного права и криминологии Академии «Stefan cel Mare» Министерства внутренних дел Республики Молдова (г. Кишинев, Республика Молдова)

ЗАХВАТ ЗАЛОЖНИКОВ И ДРУГИЕ ДЕЯНИЯ ПРОТИВ СВОБОДЫ ЛИЧНОСТИ ПО УГОЛОВНОМУ ЗАКОНОДАТЕЛЬСТВУ ЗАРУБЕЖНЫХ СТРАН

Статья посвящена актуальной проблеме – сравнительному анализу уголовной ответственности за преступления против свободы личности по законодательству зарубежных стран. Отмечено, что преступные деяния, связанные с захватом заложников, признаны особо опасными во всем цивилизованном мире. Действующее законодательство большинства стран предусматривают уголовную ответственность за захват заложников, похищение человека и незаконного лишения свободы. Обосновано, что в уголовном законодательстве некоторых стран не всегда различаются между собой понятия «захват заложников», «похищение человека» и «незаконное лишение свободы».

Сделан вывод, что в некоторых государствах, помимо ответственности за похищение человека и незаконное лишение свободы, предусмотрена и отдельная норма, предусматривающая ответственность за захват заложников. В Уголовных кодексах других государств, напротив, преступления, связанные с похищением человека, включают в себя и захват заложников.

Ключевые слова: захват заложников, похищение человека, незаконное лишение свободы,отягчающие обстоятельства, национальное уголовное законодательство, уголовная ответственность.

Кіріца В., доктор права, доцент, доцент кафедри кримінального права та кримінології Академії «Ștefan cel Mare» Міністерства внутрішніх справ Республіки Молдова (м. Кишинів, Республіка Молдова)

ЗАХОПЛЕННЯ ЗАРУЧНИКІВ ТА ДЕЯКІ ДІЇ ПРОТИ СВОБОДИ ОСОБИ В КРИМІНАЛЬНОМУ ЗАКОНОДАВСТВІ ІНОЗЕМНИХ ДЕРЖАВ

Стаття присвячена актуальній проблемі – порівняльному аналізу кримінальної відповідальності за злочини проти свободи особи за законодавством зарубіжних країн. Зауважено, що протиправні діяння, пов'язані із захопленням заручників, визнані особливо небезпечними в усьому цивілізованому світі.

Автором проаналізовано кримінальне законодавство Республіки Молдова та положення кримінального законодавства деяких зарубіжних країн, а саме: України, Румунії, Сполучених Штатів Америки, Китайської Народної Республіки, Федеративної Республіки Німеччини, Французької Республіки, Королівства Іспанії, Швейцарської Конфедерації, Королівства Данії, Королівства Швеції, Естонської Республіки, Російської Федерації, Азербайджанської Республіки, Республік Білорусь, Казахстан, Таджикистан тощо.

Зазначено, що чинне законодавство більшості країн передбачає кримінальну відповідальність за захоплення заручників, викрадення людини та незаконне позбавлення волі. Обґрунтовано, що кримінальне законодавство Республіки Молдова, України, Республіки Узбекистан, на відміну від законів вищезазначених держав, не передбачає можливості звільнення від кримінальної відповідальності за захоплення заручників або викрадення особи. Покарання за захоплення заручників у більшості держав-членів СНД є досить суворим. За скоєння незаконного позбавлення волі зазвичай передбачається більш м'яке покарання. Смертна кара за захоплення заручників з особливо обтяжуючими обставинами передбачена лише Кримінальним кодексом Республіки Таджикистан. Цей же Кодекс також передбачає максимальний термін ув'язнення за захоплення заручників та викрадення особи строком на двадцять років, а за незаконне позбавлення волі – на десять років.

Зауважено, що в кримінальному законодавстві деяких країн не завжди розрізняють між собою поняття «захоплення заручників», «викрадення людини» і «незаконне позбавлення волі». Зроблено висновок, що в деяких державах, крім відповідальності за викрадення людини та незаконне позбавлення волі, передбачена й окрема норма, що передбачає відповідальність за захоплення заручників. У Кримінальних кодексах інших держав, навпаки, злочини, пов'язані з викраденням людини, включають і захоплення заручників.

Ключові слова: захоплення заручників, викрадення людини, незаконне позбавлення волі, обтяжуючі обставини, кримінальне законодавство, кримінальна відповідальність.