

## **Criminal Code of Ukraine 2001 (abstracts)**

### **Article 8. The operation of the law on criminal liability in regard to offenses committed by foreign nationals or stateless persons outside Ukraine**

Foreign nationals or stateless persons not residing permanently in Ukraine, who have committed criminal offenses outside Ukraine, shall be criminally liable in Ukraine under this Code in such cases as provided for by the international treaties, or if they have committed any of the special grave offenses against rights and freedoms of Ukrainian citizens or Ukraine as prescribed by this Code.

### **Article 10. Extradition of a person accused of a criminal offense and a person convicted of a criminal offense**

1. Citizens of Ukraine and stateless persons permanently residing in Ukraine, who have committed criminal offenses outside Ukraine, shall not be extradited to a foreign state for criminal prosecution and committal for trial.

2. Foreign nationals, who have committed criminal offenses on the territory of Ukraine and were convicted of these offenses under this Code, may be transferred to serve their sentences for the committed offenses in the state, whose nationals they are, where such transfer is provided for by the international treaties of Ukraine.

3. Foreign nationals or stateless persons not residing permanently in Ukraine, who have committed crimes outside Ukraine and stay on the territory of Ukraine, may be extradited to a foreign state for criminal prosecution and committal for trial, or transferred to serve their sentence, where such extradition or transfer is provided for by the international treaties of Ukraine.

### **Article 12. Classification of criminal offenses**

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4. A grave criminal offense shall mean an offense punishable by imprisonment for a term up to ten years.

5. A special grave offense shall mean an offense punishable by more than ten years of imprisonment or a life sentence.

### **Article 446. Piracy**

1. Piracy, that is the use of a vessel, whether armed or not, for capturing any other sea or river vessel, and violence, robbery or any other hostile actions against the crew or passengers of such vessel, for the purpose of pecuniary compensation or any other personal benefits, -

shall be punishable by imprisonment for a term of five to twelve years with the forfeiture of property.

2. The same acts, if repeated, or where they caused death of people or any other grave consequences, - shall be punishable by imprisonment for a term of eight to fifteen years with the forfeiture of property.

### **Criminal Procedural Code of Ukraine 1960 (abstracts)**

#### **Article 112. Jurisdiction**

In cases of crimes envisaged in Article 446 of the Criminal Code of Ukraine the pre-trial investigation is conducted by the investigative bodies of the Security Service of Ukraine.

### **Ukraine's legislation on piracy (overview)**

Under Article 9 of the Constitution of Ukraine international treaties that are in force, agreed to be binding by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine.

With regard to the above mentioned, the following international treaties to which Ukraine is a Party are direct applicable in relation to the prevention and punishment of piracy and armed robbery at sea:

- United Nations Convention of the Law of the Sea 1982;
- United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 and Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 1988;
- United Nations Convention against Transnational Organized Crime 2000;
- International Convention Against the Taking of Hostages 1979.

The main national legislation act which sets the responsibility for the acts of piracy and armed robbery of ships is the Criminal Code of Ukraine 2001 (CCU).

In the CCU the act of piracy is regarded along with the war crimes, crimes of genocide and ecocide etc as criminal offenses against peace, security of mankind and international legal order.

Under Article 446 piracy, that is the use of a vessel, whether armed or not, for capturing any other sea or river vessel, and violence, robbery or any other hostile actions against the crew or passengers of such vessel, for the purpose of pecuniary compensation or any other personal benefits, shall be punishable by imprisonment for a term of five to twelve years with the forfeiture of property.

The same acts, if repeated, or where they caused death of people or any other grave consequences, shall be punishable by imprisonment for a term of eight to fifteen years with the forfeiture of property.

Thus Article 446 qualifies piracy as a grave or special grave criminal offenses, which under the Article 12 shall mean an offense punishable by imprisonment for a term up to ten years or more than ten years of imprisonment or a life sentence.

Taking into account the possibility of arresting delinquents, who committed crimes against the citizens of Ukraine off the coast of Somalia, Article 8 sets the basis for the operation of the law on criminal liability in regard to such offenses committed outside Ukraine. Under its provisions foreign nationals or stateless persons not residing permanently in Ukraine, who have committed criminal offenses outside Ukraine, shall be criminally liable in Ukraine under the CCU in such cases as provided for by the international treaties, or if they have committed any of the special grave offenses against rights and freedoms of Ukrainian citizens or Ukraine as prescribed by the CCU.

The extradition of a person accused of a criminal offense or convicted of a criminal offense of piracy is carried under the provisions of Article 10, due to which:

- foreign nationals, who have committed criminal offenses on the territory of Ukraine and were convicted of these offenses under this Code, may be transferred to serve their sentences for the committed offenses in the state, whose nationals they are, where such transfer is provided for by the international treaties of Ukraine;

- foreign nationals or stateless persons not residing permanently in Ukraine, who have committed crimes outside Ukraine and stay on the territory of Ukraine, may be extradited to a foreign state for criminal prosecution and committal for trial, or transferred to serve their sentence, where such extradition or transfer is provided for by the international treaties of Ukraine.

In accordance with Article 112 of the Criminal Procedural Code of Ukraine the pre-trial investigation concerning the crimes stipulated in Article 446 of the MCC is conducted by the Security Service of Ukraine.