

Migration and Security concerns in the light of the Criminal Law

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Introduction: What we need to know?

- 60 years of totalitarian oppression – Nazi + Communists
- 1989 – Velvet revolution
- 1993 – Dissolution of Czechoslovakia to Slovakia and Czech republic
- 1st peaceful separation between two states
- Two separate constitutions
- Communist legislation survive until now



Constitutional Fundamentals

- The Constitution of the Slovak republic Act. No. 460/1992 Coll.
- Article 1 - (1) The Slovak Republic is a sovereign, democratic state governed by the rule of law.
- Access to EU/EC in 2004
- Article 7 para 2 – direct provision for priority of EU Law before legal acts of the State but NOT the Constitution
- Article 1 - (2) The Slovak Republic acknowledges and adheres to **general rules of international law**, international treaties by which it is bound, and its other international
- obligations.



Law in Action

- European Criminal Law
- Mostly Directives and Regulations.
- National Legislation – namely:
 - Criminal Code and Code of Criminal Procedure
- Jurisprudence:
 - the Constitutional Court (ConCourt) and Supreme Court of the Slovak Republic
 - the ECtHR and CJEU + ICC and *Ad Hoc Tribunals*



On the blink

- Legal provisions criminalizing trespassing
 - para. 354 - Forced Crossing of State Border
 - a national specialty from the 90's
 - para. 355 – Trafficking
 - based on international conventions as well as international legal obligations of the state
 - para 357 - Illegal Crossing of the State Border



Jurisprudence of the ConCourt vol. 1

- Case of Jandiev
- The National Security issue with a anti-terrorist law
- Extradition request to a country with Questionable human rights policy (Russia)
- Ask for asylum and stay – within the Courts of general jurisdiction denied



Vol. 2

- Remanded to ECtHR
- ECtHR gave a green a light that mere suspicion is not enough for such a stop of a extradition
- Concourt therefore decided that lodged complaint is without the merit



Conclusion

- We do not care
- If you are a migrant especially the criminal, moreover serious one, you are not welcomed.
- Your human rights are only a collateral damage



Thank you for your
attention.