

Effectiveness Requirements for Foreign Criminal Laws and Sentences in The National Territory: Developments, Obstacles and Solutions in the Field of Cybercrimes

Abstract

The all-round application of the principle of the sovereignty of countries in their territory through the tool of criminal jurisdiction has undergone a change despite the justifications for it, so that the effectiveness of foreign laws and rulings has been modified in recent years in the light of human rights concepts and fair trial standards, and many countries have deviated from their sovereignty and considered the interests of the accused to be preferable having anticipated examples of the application of foreign law. One of the most important features of cyber space is that it is not limited to the geographical borders of countries, which is called "extra-spatial" feature. This feature causes the determination of the competent court to deal with the crimes committed in this space to be faced with fundamental problems. In the real space, factors such as the location of the crime, the location of the crime, the place of residence and the arrest of the accused are the criteria for applying territorial jurisdiction, but considering the characteristics of the cyberspace, the most important of which is not being assigned to a specific place, "being extra-local", the application of jurisdiction A territory in this space causes a positive conflict between the courts of different countries. Therefore, determining the territory of this principle creates the greatest challenge in dealing with cybercrimes and in the procedures of different countries of the world, it is possible to refer to the location of the computer, the location of the uploader or implementer, the location of the action, the location of the effect, or other matters. The title of the factors relating the jurisdiction of the court to the criminal act located in the cyberspace was mentioned. This research, which was carried out using the descriptive-analytical method and using library and cyberspace resources, tries to investigate the influence of the criminal laws of our country on this process. After the victory of the Islamic Revolution and under the influence of Sharia standards, and also due to the increasing progress in cyber fields and the increase in crimes in this area, the said process encountered obstacles that require reflection and research to overcome, obstacles such as the conditions of the appointed judge. , the rule of negation of the mustache and some unreasonable precautions of the legislator in this context can be seen, which has become an obstacle to the development of the criminal law of our country for the expansion of the place.

Keywords: Cyber-Crimes, Effectiveness, Foreign Judgments, Criminal Law, Foreign Criminal Law