

INTERNATIONAL LEGAL COOPERATION IN THE FIELD OF CRIMINAL JUSTICE: NEW CHALLENGES AND WAYS TO OVERCOME THEM

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ABSTRACT

Purpose: Nowadays, international legal cooperation in criminal justice is one of the most important components of each country's legal system. Due to the growing number of international crimes, such as terrorism, cybercrime, cross-border crime and others that have become transnational, the need for effective international cooperation is becoming increasingly important. This article provides a comprehensive overview of the principles, forms and instruments of international cooperation in criminal matters.

Method: The article uses general and special scientific methods.

Results: The article emphasizes the importance of trust, mutual responsibility and cooperation, mutual legal assistance and protection of human rights as key principles of international cooperation. The article also considers various instruments of international cooperation, such as Interpol, Europol, the Hague Conference on Private International Law and others.

Conclusions: The article argues that these instruments play a crucial role in facilitating cross-border cooperation and improving the effectiveness of criminal justice systems around the world. The article is a valuable contribution to understanding the importance of international cooperation in criminal justice and its impact on national legal systems. The article provides a clear explanation of the concepts and principles of international cooperation in criminal justice, its current problems, challenges, work currently underway to overcome them, and future plans to improve international cooperation in the field of criminal justice.

Keywords: criminal justice, international cooperation, international organizations, bilateral relations, Interpol, Europol.

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COOPERAÇÃO JURÍDICA INTERNACIONAL NO DOMÍNIO DA JUSTIÇA PENAL: NOVOS DESAFIOS E FORMAS DE OS SUPERAR

RESUMO

Propósito: Atualmente, a cooperação jurídica internacional em justiça criminal é um dos componentes mais importantes do sistema jurídico de cada país. Devido ao número crescente de crimes internacionais, como o terrorismo, a cibercriminalidade, a criminalidade transfronteiriça e outros que se tornaram transnacionais, a necessidade de uma cooperação internacional eficaz está a tornar-se cada vez mais importante. Este artigo fornece uma panorâmica abrangente dos princípios, formas e instrumentos da cooperação internacional em matéria penal.

Método: O artigo utiliza métodos científicos gerais e especiais.

Resultados: O artigo enfatiza a importância da confiança, responsabilidade e cooperação mútuas, assistência jurídica mútua e proteção dos direitos humanos como princípios-chave da cooperação internacional. O artigo também considera vários instrumentos de cooperação internacional, como a Interpol, a Europol, a Conferência da Haia de Direito Internacional Privado e outros.

Conclusões: O artigo argumenta que estes instrumentos desempenham um papel crucial para facilitar a cooperação transfronteiriça e melhorar a eficácia dos sistemas de justiça penal em todo o mundo. O artigo é uma contribuição valiosa para a compreensão da importância da cooperação internacional na justiça penal e seu impacto nos sistemas jurídicos nacionais. O artigo fornece uma explicação clara dos conceitos e princípios da cooperação internacional na justiça penal, seus problemas atuais, desafios, trabalho em curso para superá-los e planos futuros para melhorar a cooperação internacional no campo da justiça criminal.

Palavras-chave: justiça criminal, cooperação internacional, organizações internacionais, relações bilaterais, Interpol, Europol.

1 INTRODUCTION

The problem of effective provision of the protection of the aggrieved person's rights has always existed. However, as historical events testify, the Second World War radically changed views on guarantees of world peace because humanity understood the true value of human rights and freedoms, which led to a fundamental update of the legal mechanism for their protection. Starting from this time, protecting human rights is not a purely internal competence of states. It has gained international significance, embodied in the idea of creating a new international law and order, the basis of which is the respect for fundamental rights and freedoms (Ablamskyi et al. 2020; Sokurenko et al. 2023). In a democratic and legal society, the field of criminal justice (including the judiciary) has the role of an effective tool for restraining arbitrariness on the part of other branches of government - legislative and executive. At the same time, the judicial system also needs to be restrained. Therefore, in addition to the mechanism of checks and balances existing



in the constitutional model of Ukraine, an important factor is the existence of a developed and active civil society, which institutions are able to ensure effective public control over the activities of state authorities (Heta, 2022).

International legal cooperation in criminal justice concerns the exchange of information, evidence and suspects between countries for the purpose of investigating and prosecuting criminal activity that has a cross-border impact. This type of cooperation is critical in today's globalized world, where criminal activity often transcends national borders, making it difficult for any country to effectively combat it on its own. The need for international legal cooperation in the field of criminal justice is increasingly important due to the growth of transnational crimes such as drug trafficking, money laundering, cybercrime and terrorism, which are increasingly global in nature and transcend national borders. As a result, traditional legal systems face difficulties in detecting, investigating and prosecuting these crimes in various countries around the world.

2 RESEARCH PURPOSES

The purpose of the article is to consider the main principles, forms and tools of international cooperation in the field of criminal justice, as well as to analyze its impact on the national legal system. The task of the article is to establish the key features of the current state of functioning of international cooperation in the field of criminal justice, to identify its shortcomings and to propose possible options for promising successful solutions and elimination of these shortcomings.

3 METHODOLOGY

The solution of the outlined tasks was carried out with the help of a system of general philosophical, general scientific and special methods of cognition. Such general philosophical methods as analysis and synthesis, induction and deduction, generalization were used. They contributed to the identification of the definitions of the studied phenomena, the formulation of their features, and the logical structuring of the research as a whole. General scientific methods had not the least methodological importance during the research. Among them, a systematic approach was applied, the elements of which are structural and functional methods. The structural method was used to highlight the structure of existing research on the stated issues, the functional method was used to study the interdependence of individual scientific results, their interaction and mutual



influence. An important role in the study of the chosen topic was played by special methods of scientific knowledge, among which the actual legal (formal and dogmatic) method was applied, which contributed to the disclosure of the content of legal conceptual structures enshrined in legislation, relating to the concept and constituent elements of international legal cooperation in the field of criminal justice.

4 RESULTS AND DISCUSSION

The issue of ensuring human rights in police activities is becoming increasingly important internationally. This is due to the emergence of new threats to human rights and freedoms and the need to develop an effective mechanism for their protection and defense at the international level. There are growing regional threats to international security, which, due to their negative consequences, may have the potential for global impact and increase the level of crime both nationally and internationally (Sokurenko, 2018).

The system of protection of a person from criminal attacks, where international and constitutional protection is central, includes the following areas.

- *The first* is social protection of the individual. This should involve all social institutions, their functional rights and obligations related to ensuring the safety of people from criminal attacks.
- *The second* is economic protection of the individual. This concerns financial and economic issues and the corresponding rights of citizens. A special feature here is the protection of people from the influence of the shadow economy.
- *The third* is legal protection of a person, which includes law enforcement, prosecutorial supervision, judicial protection, etc. It means protecting a person from crimes by legal means, creating conditions for appropriate security of people. It may include lawmaking, information and legal support of activities to ensure this security, building a legal foundation for the protection of human rights and freedoms, legal control, creation of more advanced legal mechanisms for protecting citizens from crime, generalization and dissemination of existing best practices, etc. Special attention should be paid to areas of activity of the prosecutor's office and courts, the Security Service, justice authorities, tax and customs services, etc.



International legal cooperation in the field of criminal justice is important for the prevention and prosecution of transnational crimes. As criminals become more sophisticated and their activities increasingly cross borders, it becomes more difficult for individual countries to deal effectively with them alone. Working together, countries can share information and resources, coordinate investigations and prosecute criminals, ultimately making the world a safer place (Haltsova, Kharytonov, Khramtsov, Zhytnyi, Vasyliiev, 2021).

One of the main reasons for the need to cooperate in the investigation and prosecution of transnational crimes is the nature of these crimes. Crimes such as human trafficking, drug trafficking, money laundering and cybercrime are often complex and require coordinated efforts between countries for effective criminal investigation and prosecution. These crimes often involve multiple jurisdictions, which can make it difficult to find suspects, gather evidence, and secure prosecutions. Therefore, international legal cooperation is important to ensure that criminals are held accountable for their actions (Motliakh, Bezusyi, Chudnovskyi, Burlakov, Shevchuk, 2020). Another reason for the importance of international cooperation in the field of criminal justice is the benefits it provides. By working together, countries can share experiences, best practices and resources, which can lead to more efficient and effective investigations and prosecutions.

In addition, international cooperation can help build trust and understanding between countries, which in turn will facilitate future cooperation in other areas. It is known that there have been many examples and operations of successful international cooperation in the field of criminal justice in the history of international cooperation in the field of criminal justice (Voitsikhovskiy, Bakumov, Ustymenko, Lohvynenko, 2022). In particular, it should be noted that one of the most successful examples of mutual cooperation between two or more sovereign states in the field of criminal justice is the interaction of the United States of America with different countries of the world, primarily with Mexico and Canada as countries that have relatively long land borders with the United States, respectively from the south and from the north.

Operation Iron Triangle is a well-known example of a successful joint operation by the United States, Mexico and Canada to eliminate large-scale drug trafficking organization operating in three countries. The operation involved intelligence sharing, law enforcement coordination and joint investigations. As a result of the operation, more than 50 people were detained and a large amount of drugs and cash was seized. Another



well-known and successful operation was the arrest of Mexican drug lord Joaquín "El Chapo" Guzmán. After being extradited to the United States, Guzmán was convicted on charges including drug trafficking, money laundering and murder. This case was the result of a coordinated effort between the US and Mexican authorities, when the Mexican government agreed to extradite Guzmán to the US for trial, where he was eventually sentenced to life in a maximum security prison without the possibility of parole (Kravchenko, Chernadchuk, Izbash, Podorozhnii, Melnyk, 2019). Another example of successful cooperation between the two countries in the field of criminal justice is Operation Tantalio, which was a joint operation between Colombia and the United States to dismantle a drug trafficking organization operating between the two countries. The operation involved extensive intelligence sharing, joint investigations and coordination of law enforcement efforts. The operation resulted in the elimination of more than 100 people and the seizure of a large amount of drugs.

Summarizing the above examples, we would like to note that in our opinion, international legal cooperation in criminal justice is essential for the prevention and prosecution of transnational crimes. The nature of these crimes, as well as the benefits that cooperation brings, compel countries to work together to ensure that criminals are held accountable for their actions. There have been many successful examples of international criminal justice cooperation, and it is important that this cooperation continues in the future. It is important to take into account the positive achievements of foreign countries in the area of training criminal justice officers and adapting them to the changes taking place in society and the state. Participation in international cooperation in the field of criminal justice training enables the state to exchange information on new training methods and positive experience in the field of crime prevention, as well as to use such experience in practice.

Despite the advantages of international legal cooperation in the field of criminal justice, there are also several challenges and problems that can interfere with effective cooperation between countries. These problems can be explained by differences in legal systems and cultures, political tensions and mistrust between countries, language barriers and communication difficulties.

One of the main problems of international legal cooperation is the differences in legal systems and cultures between countries. Each country has its own legal system, which can create difficulties in understanding and applying foreign laws. This can make



it difficult for law enforcement agencies to share information and evidence across borders, as legal requirements for admissibility of evidence may differ from country to country. In addition, cultural differences can also affect cooperation, as cultural norms can affect how law enforcement officers from different countries around the world communicate and cooperate. Also, cultural differences can also create obstacles for international legal cooperation. Cultural factors, such as attitudes towards law enforcement agencies and systems of practical implementation of criminal justice, can influence the real willingness of countries to cooperate with each other (Brusakova, Nischymna, Panova, 2021). For example, some countries may be reluctant to extradite their citizens to countries where they may face the death penalty or where they may be subject to harsh conditions of imprisonment.

A recent example of this is the Swedish Supreme Court's blocking of the extradition of exiled Turkish journalist Bülent Kenes to Turkey. According to the decision of the judges on December 19, 2022, there are "several obstacles" to the return of the former editor-in-chief of Zaman newspaper, whom Turkey accuses of involvement in the 2016 attempted armed overthrow of President Recep Tayyip Erdogan.

Some of the charges against Kenes do not constitute crimes in Sweden, which, together with the political nature of the case and his refugee status, makes extradition impossible. As the Court noted: "There is also a risk of persecution on the grounds of his political opinion. Thus, the extradition of Bülent Kenes to Turkey cannot take place".

Another challenge to international legal cooperation is political tensions and distrust between countries. In some cases, political tensions can make it difficult for countries to cooperate effectively in criminal investigations. Countries may be reluctant to share information or evidence if they do not trust each other's intentions or capabilities (Pcholkin, Fedosova, Kotova, Merkulova, 2020). This can be particularly difficult in cases where one country suspects the other of harboring or supporting criminal organizations. For example, the United States and the Russian Federation have had a strained relationship in recent years, making it difficult for them to cooperate on issues related to transnational crime.

Another problem with international legal cooperation is the language barrier. Lawyers from different countries may not speak the same language, which makes communication difficult. Even when translators are available, legal terminology can be complex and heterogeneous, which can lead to misunderstandings and misinterpretations.



All this, together with the aforementioned distrust between some countries, creates real problems in this area. In our opinion, addressing these challenges will require concerted efforts by countries to develop common standards and procedures for legal cooperation, as well as a willingness to overcome cultural and political differences in order to achieve a common goal in this area.

Detailing and revealing the specifics and features of international legal cooperation in the field of criminal justice, as well as paying attention to the study of internal forms and mechanisms by which this area functions, we can state that as of today, there are various forms of international legal cooperation in the field of criminal justice, including bilateral and multilateral agreements, mutual legal assistance treaties, extradition agreements and international criminal tribunals.

Bilateral and multilateral treaties are agreements between two or more countries that set out the terms of cooperation in criminal matters. These agreements can cover a range of issues, including extradition, mutual legal assistance, and the transfer of prisoners. Mutual legal assistance treaties are agreements between two or more countries that provide for the exchange of information and evidence, service of legal documents, and execution of requests for assistance in criminal investigations and proceedings. Mutual legal assistance may include the transfer of evidence, the examination of witnesses and the execution of search warrants.

Informal mechanisms of international legal cooperation include police cooperation, exchange of intelligence and best practices. Police cooperation involves the exchange of information and experience between law enforcement agencies of different countries. This may include joint investigations, cross-border operations, and intelligence sharing. Intelligence sharing involves the exchange of information between intelligence agencies of different countries. Exchange of best practices involves the exchange of knowledge and experience between legal professionals, including judges, prosecutors and defense attorneys (Pchelina, Skulysh, Buglak, Myroniuk, 2021). Extradition treaties are agreements between two or more countries that provide for the transfer of persons charged with or convicted of a crime in one country to another country for trial or punishment. International criminal tribunals are international courts established to prosecute individuals accused of international crimes, such as war crimes, crimes against humanity, and genocide. Examples of such tribunals include the International Criminal Court and



the International Criminal Tribunal for the former Yugoslavia (Bakaieva, Zmiivskiy, Yehorov, Stashchak, Shendryk, 2021).

International legal cooperation in the field of criminal justice also benefits from the development of the international legal framework and international standards for all participating countries. These frameworks and standards provide a common basis for cooperation and can help resolve challenges related to differences in legal systems and cultures. For example, the UN Convention against Transnational Organized Crime provides a framework for cooperation between countries in the fight against organized crime, while the Council of Europe Convention on Cybercrime provides a framework for cooperation in the field of cybercrime. In conclusion, it should be noted that international legal cooperation in the field of criminal justice has many forms and facilitates various mechanisms. These mechanisms can be formal or informal and involve cooperation between law enforcement agencies, intelligence services and legal professionals. When cooperating in the field of training personnel for criminal justice, states use two main legal forms, such as: contractual and legal (or convention) and institutional (cooperation within the framework of international organizations, for example, participation in such specialized international organizations as the Conference of Rectors of Police Universities of countries of Western and Eastern Europe, Association of European Police Academies). In our opinion, the study of the peculiarities of cooperation within the framework of international training centers and specialized organizations for the training of personnel for criminal justice deserves special attention. We believe that it is necessary to develop cooperation in this direction, expand the circle of participants of already existing organizations and create new ones. In our opinion, it is expedient to create such an international educational center on the basis of one of the educational institutions that train personnel for criminal justice.

International legal frameworks and standards also play an important role in facilitating cooperation and addressing the challenges posed by differences in legal systems and cultures. The most well-known international organizations in the field of criminal justice are Interpol, Europol, Joint Terrorism Task Forces (JTTFs) and other agencies that have been able to conduct many successful operations (Borovyk, Vartyletska, Vasylenk, Patyk, Pochanska, 2021). Thus, international standards for training personnel in the field of criminal justice can be defined as unified requirements



for the training of representatives of criminal justice contained in international agreements and documents. The standards for training such personnel can be divided into:

- professional standards aimed at increasing the level of professional training, which should ultimately lead to the optimization of the arsenal of means and methods of combating crime;
- standards in the field of ensuring human rights, which are aimed at ensuring the understanding and observance by all employees of the field of criminal justice of human rights and fundamental freedoms.

Researching and analyzing possible prospects for the development and improvement of the field of criminal justice both in Ukraine and around the world, we fully agree with the statement that in recent years, international legal cooperation in the field of criminal justice has undergone several changes and reforms (Matviichuk, 2014). These changes are usually aimed at strengthening international cooperation and facilitating the prosecution of transnational crimes, including terrorism, money laundering, cybercrime and human trafficking. The main areas that received the greatest strengthening and improvement were cross-border cooperation (especially between EU countries), improvement of mutual legal assistance, the fight against corruption, strengthening mechanisms for the protection of victims and witnesses, etc. In addition, one cannot fail to note the improvement of the technological process, carried out in particular through the use of AI technologies (AI - Artificial intelligence). After all, it is now an established fact that technology is playing an increasingly important role in international legal cooperation in the field of criminal justice. For example, digital forensics is now used to collect evidence in criminal investigations, and the use of electronic communication channels facilitates cross-border cooperation (Shamrai, Ivchuk, Tarasenko, Fedorov, 2020). However, despite the obvious successes in certain areas of the functioning of the international sphere of criminal justice, we must admit that there are still areas in this field that require qualitative and urgent improvement. For example, it is the strengthening of the international legal framework. Currently, there is a need to strengthen the legal framework that regulates international legal cooperation in the field of criminal justice. This may include developing new international agreements, protocols and conventions, as well as ensuring that existing frameworks are more widely accepted and implemented by States. There is also currently a need to improve the exchange of information between states to ensure that law enforcement agencies have



access to the information they need to effectively investigate and prosecute transnational crimes (Garbasey, 2015). This may include the creation of international databases, as well as the promotion of existing information sharing organizations such as Interpol, Europol, Joint Terrorism Task Forces, etc. At the same time, it is well known that many states lack the capacity to effectively investigate and prosecute transnational crimes. Capacity-building efforts, including training programs, technical assistance and other forms of support to promote the development of law enforcement capacity in developing countries, should be strengthened. The further fight against corruption is also an extremely important area that requires continuous development. After all, corruption undermines the effectiveness of criminal justice systems and hinders international cooperation in the fight against transnational crime (Manual on International Cooperation in Criminal Matters related to Terrorism, 2019).

Fighting corruption at all levels, from individual law enforcement officials to high-level government officials, is essential to promoting the rule of law and building trust between countries. In general, the implementation of these future areas of improvement of international legal cooperation in the field of criminal justice will contribute to the creation of a more effective and fair global system of criminal justice (Dandurand., Jahn, 2021). By solving existing challenges and developing new solutions, the international community, and especially transparent and developed democratic countries with a real rule of law, in our opinion, can jointly fight transnational crime and contribute to the true achievement of the rule of law, carrying out effective legal prosecution of offenders and protecting national and international law.

5 CONCLUSIONS

In summary, international legal cooperation plays a crucial role in the field of criminal justice. Famous successful operations, such as the arrest of known criminals and the successful prosecution of transnational crimes, emphasize the importance of successful international cooperation. However, issues such as differences in legal systems, language barriers and political obstacles hinder international legal cooperation. To overcome these problems, various forms and mechanisms of international legal cooperation have been created, including extradition, mutual legal assistance and joint investigation. In addition, organizations such as Interpol, Europol, Joint Terrorism Task Forces and European Joint Investigation Teams are successful in preventing and



prosecuting transnational crimes. However, there are also challenges to international legal cooperation in the field of criminal justice. One of the main problems is the differences in legal systems and procedures between countries. These differences can create difficulties in the extradition of suspects and the sharing of evidence, and can lead to differences in sentencing.

Another problem is the language barrier, which can make communication and coordination between law enforcement agencies difficult. In addition, political obstacles, such as different priorities or strained diplomatic relations, can hinder international cooperation. Various forms and mechanisms of international legal cooperation were created to overcome these challenges. These include extradition treaties, mutual legal assistance agreements and joint investigations. These mechanisms allow countries to cooperate in the investigation and prosecution of crimes and facilitate the sharing of evidence and intelligence. Continuous efforts to improve international legal cooperation are necessary to effectively combat transnational crimes and bring perpetrators to justice.



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