

# INTERNATIONAL COOPERATION IN THE FIELD OF FIGHTING CRIME: DIRECTIONS, LEVELS AND FORMS OF REALIZATION

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## ABSTRACT

***Purpose:** The article is devoted to the research of the issue of the international cooperation between law enforcement agencies of the States and international organizations in the area of combating crime and characterization of directions, levels and forms of its implementation.*

***Methodology:** The research methodology is based on the results of scientific studies of national (Ukrainian), and European scientists on the issues of the international cooperation in the area of combating crime. The methodological basis of the study is a set of general and special methods of scientific knowledge, such as comparative, statistical, systems analysis, historical and legal, systemically and structural methods.*

***Results:** The study allowed determining the directions of international cooperation in the area of crime control, such as the enshrinement of international unlawfulness of crimes; formation of international standards of human rights and freedoms; conclusion of international treaties; investigation of manifestations of international crime; research activity. The levels of international cooperation in the area of crime control such as level of bilateral cooperation and cooperation at the regional and global levels are defined. The forms of international cooperation in the area of combating crime are: international legal assistance, extradition of a person suspected in committing a crime, adoption of criminal proceedings; transfer of convicted to imprisonment for the further execution of a punishment; international search; ensuring the rights and freedoms of citizens during criminal proceedings in another State; information exchange.*

**Keywords:** International Crime, International Cooperation, Law Enforcement Agencies, Investigation.

## INTRODUCTION

Modern society is devastating from the manifestations of international crime, which harms social relations in political, economic, social, and spiritual spheres. Despite considerable efforts, any country in the world can independently oppose to international crime, and only joint efforts and international cooperation among competent subjects can solve the global problem of the world community. Thereafter, the important direction of research is the formation of the principles of international cooperation in the area of combating international crime.

The purpose of the article is to define the bases of international cooperation of law enforcement agencies of the States and international organizations in the area of combating international crime, the characterization of directions, levels and forms of its implementation.

## MATERIALS AND METHODS

The materials reviewed are international treaties, legislation of a number of States (Ukraine, Poland and Italy), research papers on the issues of combating international crime, regular statistical material on crime and the results of the activities of the investigation agencies of Ukraine and Interpol, materials on criminal proceedings, during the investigation of which the measures of international cooperation were applied.

In the course of study general scientific and special methods were used, which are the means of scientific research. In particular, comparative legal method was used for the analysis of the norms of substantive and procedural law of international and national legislation of Ukraine and other States, scientific categories, definitions and approaches. Historical and legal method gave an opportunity to reveal the meaning of the concepts of “*international cooperation*”, “*international crime*”, “*investigation of crimes*”, to highlight the development of scientific views on specific issues. System analysis method was applied for an integrated generalization of the features of international criminal activity and the fight against its manifestations. The system-structural method made it possible to determine the tasks of law enforcement agencies of the States and international organizations in combating international crime, taking into account the functional aspect of the activities of the relevant agencies and individuals. The statistical method was used for the generalization of the results of the empirical sources review.

## RESULTS

The principle of cooperation between States is the rule of jus cogens (an indisputable right, firm law), one of the principles of international law set forth in the leading international documents: the Charter of the United Nations of June 26, 1945 (Articles 1, 11, 13, 55, 56) (Law & Regulation, 1945), the Preamble to the Vienna Convention on the Law of Treaties (Law & Regulation, 1969) and other important international documents.

International cooperation in combating crime is a complex system of social relations which is being implemented in order to prevent, detect, investigate, adjudicate crimes and prosecute offenders.

International cooperation in the area of crime control is realized in accordance with relevant directions, levels and forms. The study of legislation, research papers, shows the lack of a single coherent approach to their clarification. Let us formulate our view on the ascertainment of the above stated issue.

The conducted research has shown that based on the interpretation of the notion of direction as a line of movement, the way of development, following directions of international cooperation in the field of fighting international crime can be identified:

1. Identification of international unlawfulness of socially dangerous acts which encroach upon the interests of the States, the world community and the imposition of the obligation of the States to enshrine their criminal punishability in national legislation;
2. Formation of the international standards for the observance of human rights and freedoms during the criminal prosecution of persons involved in international criminal activity;

3. Conclusion of the international treaties (multilateral and bilateral) on the implementation of international cooperation in the area of crime prevention;
4. Application of measures envisaged in international treaties and national laws of the states with the aim of investigating the manifestations of international crime-international crimes, crimes of international character and other common criminal offenses with “*international connections*”;
5. Research activities on purpose to joint study of the problems of fighting international crime and to formulate a set of countermeasures.

According to the interpretation of the notion of «level» as a conventional horizontal line or a plane that serves as the height limit, in which the legal relationship develop, to the levels of international cooperation in the field of fighting international crime one can ascribe:

1. Level of bilateral cooperation between the states, which consists in the cooperation between the States and their competent authorities, diplomatic representations, consular offices and other authorized entities;
2. Cooperation at the regional level, which is realized between the States, provided that they are, united on a territorial basis (European Union, Council of Europe) or within the limits of the regional international organizations activities. It is about the implementation of international cooperation within the Organization for Security and Cooperation in Europe, the Organization of American States and other regional international organizations, which tasks include the assistance for combating international crime;
3. Cooperation at the global level, which involves almost all countries of the world in the fight against international crime, with assistance from the world-class international organizations. These are the United Nations and its specialized agencies, the International Criminal Police Organization-Interpol and others.

According to the interpretation of the notion of «form» as the method of organizing and external expression of activity, the forms of international cooperation in the area of fighting international crime include:

1. International legal assistance, extradition of persons suspected of committing offences, criminal proceedings in transfer order, which is carried out for the purpose of investigating crimes;
2. Transfer of convicted to imprisonment for the further execution of a punishment to the states of their citizenship or permanent places of residence;
3. International arrest warrant;
4. Ensuring the rights and freedoms of citizens of the state during the conduct of criminal proceedings in another state;
5. Exchange of information and work experience of the competent authorities of the states, arranging educational and methodological, scientific events, providing assistance, in particular for the needs of the technical-forensic and forensic expert support.

## DISCUSSION

Let's do a closer examination of some separate directions, levels and forms of realization of international cooperation in the field of fighting crime.

We have noted that an important direction of international cooperation in the field of fighting international crime is the conclusion of international treaties, which constitutes the legal basis for these activities. According to the results of the research (Chornous, 2018) we have conditionally united them in groups: multilateral international treaties regulating human rights and freedoms; multilateral international treaties on fighting international crime; multilateral and bilateral international treaties on international legal aid and other forms of international cooperation in criminal proceedings; consular conventions and agreements regulating certain issues of criminal proceedings. It is necessary to take into account the provisions of multisectoral

international treaties concluded by ministries, central executive authorities of the states on the issues referred to them and aimed at improving the practical mechanisms for the implementation of international cooperation of law enforcement agencies of the States.

Thus, international treaties concluded by the States in order to implement international cooperation measures, to determine the international unlawfulness of socially dangerous acts which encroach upon the interests of the states, the world community and to impose the obligation of the States to enshrine their criminal punishability in national legislation; to specify international standards for the observance of human rights and freedoms during the criminal prosecution of persons involved in international criminal activity; to create practical mechanisms for implementation of international cooperation in the area of fighting crime.

Describing the level of international cooperation in the area of combating international crime, we can conclude that under those conditions the fundamental issue is the specification of the subjects of cooperation, which will determine the direct level of cooperation.

Conditionally, the subjects of cooperation when deciding on problems of international cooperation can be divided into two groups: authorized (central) and competent authorities of states; international organizations.

The research has shown, that the subjects of cooperation when performing the tasks of international cooperation in the area of combating crime and investigating the corresponding crimes are considered the authorized (central) and competent agencies. However, which particular agencies are meant by these terms in different countries, what is the procedural order and organizational features of realization of cooperation measures? The differences in legal systems of the States, in the structure of the agencies involved in combating crime, require the clarification of these terms in accordance with international treaties, declarations and reservations expressed by States when signing and ratifying them in the national legislation.

According to Article 15 of the European Convention on Mutual Legal Assistance in Criminal Matters of 1959 (Law & Regulation, 1959), judicial orders and requests are sent by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and are returned by the same channels. In urgent cases, court orders may be sent directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party. They return with the relevant documents by the channels mentioned above.

As it was noted, the notions of bodies of justice and judicial bodies were clarified by the States parties to the Convention (Council of Europe, 1959).

For example, during the ratification the statement was made by the Italian Government that according to Article 24 of the Convention the Constitutional Court and the Parliamentary Investigative Commission should additionally be considered as judicial authorities. The Republic of Poland has made a statement that, for the purposes of the Convention, prosecutors will also be qualified as judicial authorities. Ukraine determined that the authorities, which are empowered in accordance with Article 15, Paragraph 1 of the Convention, are the Ministry of Justice of Ukraine (regarding court requests) and the General Prosecutor's Office of Ukraine (regarding the requests of pre-trial investigation bodies). Besides, for the purposes of the Convention, judicial authorities of Ukraine are: courts of general jurisdiction, prosecutors of all levels, bodies of pre-trial investigation (according to the statements and the reservations made by the participating countries to the European Convention on Mutual Assistance in Criminal Matters of 1959).

The analysis of the declarations and reservations of the other participating countries to the above-mentioned Conventions (which is more than 40 States) (Multilateral agreements,

2006) and their national legislation, testifies to the additional consolidation at the national level of the competent authorities which can act as central (authorized) and coordinate activities for rendering or receiving legal assistance, other forms of international cooperation in criminal proceedings.

In relation to the signing and ratification of the Second Additional Protocol of 2001 to the European Convention on Mutual Legal Assistance in Criminal Matters of 1959, the indicated Convention was amended and supplemented. Thus, the mentioned Article 15 Channels of communication was presented in the new version, and Article 4, Paragraph 4 of the Protocol 2001 secured the possibility of a direct connection between the competent authorities of the requesting Party and the competent authorities of the requested Party (Council of Europe, 2001).

We consider the positive tendency that, along with the central bodies which directly coordinate the implementation of international cooperation, the direct communication or direct order of communication between the competent authorities is allowed, which under these conditions acquire the status of authorized authorities. Such direct interaction contributes to the efficiency of cooperation, effective solution of the tasks.

A number of international treaties on fighting international crimes also regulate the peculiarities of the direct order of relations between the competent authorities of the States in order to solve the tasks of investigating crimes Article 24 of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (Council of Europe, 1990); Article 35 of the Convention on Cybercrime of 2001 (The Convention on Cybercrime, 2001) and others.

In our opinion, direct interaction between the competent authorities of the States promotes the efficiency of cooperation, simplifies the solution of a number of organizational issues. Proceeding from the aforesaid, the measures for increasing efficiency of international cooperation in the area of combating crime should include the improvement of mechanisms for the direct cooperation between the competent authorities of the States.

The resolving of important tasks of international cooperation during the investigation of crimes is proceeded involving international organizations at the global and regional levels.

Globally, the United Nations Organization, established in 1945, which comprises 193 Member States, defines common standards, principles, recommendations relating to criminal justice, the rights and freedoms of citizens involved in this sphere. The tasks of international cooperation of the States derive from Article 1 of the Charter of the United Nations, and numerous structural units, institutes; specialized congresses ensure the effective operation of the United Nations in this area. The UN General Assembly is the initiator of developing international and national programs to fight the most dangerous and widespread crimes of an international character.

There are a number of institutes in the UN system that contribute to solving the problems of combating crime at the international level: the Center for International Crime Prevention; Interregional Romanian Scientific Research Institute for Crime and Justice; The United Nations Asian and Far Eastern United Nations Institute for the Prevention of Crime and the Treatment of Offenders in Tokyo; Helsinki Institute for Crime Prevention and Control; United Nations African Institute for the Prevention of Crime and the Treatment of Offenders; Australian Institute of Criminology; Canadian International Center for Criminal Legislation and Criminal Justice Policy; International Criminal Court; Special Financial Commission for Money Laundering

(FATF); the G-8's Senior Expert Group on Transnational Organized Crime, known as The Lyons Group and others.

### **Interpol and Europol Play a Leading Role in Solving Law Enforcement Tasks**

Interpol is an international intergovernmental organization, which comprises 192 countries. The structure of Interpol includes the operation of the National Central Bureau (NCB) of Interpol in each Member State—the unit that directly provides for international cooperation of law enforcement agencies of each State within Interpol. Basically, these are the focal points of Interpol on the ground. Organizational models of NCB are different because their structure is determined by each State on its own. In Ukraine, the authorized representative of Interpol (National Central Bureau) is the Office of the Ukrbureau Interpol, represented by the Department of International Police Cooperation, which is the structural unit of the Office of the National Police of Ukraine.

International cooperation in the area of crime prevention is carried out on purpose to: exchange information; identify and verify persons, records of Interpol and foreign police; conduct international search by Interpol channels, ensure implementation of extradition of a person; assist in realization of procedural actions as part of international cooperation.

Notably, by means of Interpol when exchanging information you can get data regarding: (1) person's illegal activity; (2) the person (persons) suspected (accused) of committing a crime and their connections; (3) the whereabouts or the residence of the suspected and accused who went abroad; (4) the method of committing a crime, the circumstances of its commission; (5) illegal activities of the organized criminal groups; (6) commercial structures, other legal entities located abroad which are involved in illegal activities; (7) the main directions of legal entities activities, the amount of their authorized capital, information concerning their managers, founders (it is possible to obtain information on agreements concluded by foreign firms with Ukrainian legal entities and individuals or with their participation, and the consequences of their implementation); (8) vehicles which were stolen and their owners; (9) narcotic substances, psychotropic substances, antiques, forged documents, money and other objects related to the crime; (10) analytical, scientific, statistical and reference information on law enforcement activities, etc. (Legislation of Ukraine, 1997).

According to empirical data, the most frequent exchange of such information takes place on issues of illegal circulation of drugs, weapons, explosives, radioactive and toxic substances; forgery of documents, money, payment cards; identification of corpses; DNA profiles checking; search for missing persons; dissemination of malware (viruses); child pornography, etc.

The important direction of cooperation with Interpol in the investigation of crimes is the identification and verification of persons involved in the commission of crimes, items related to the crime, etc. on the basis of the records of Interpol and the police of foreign countries.

The usage of Interpol's assistance for the purpose of international search and ensuring the extradition of persons who have committed criminal offenses is somewhat different. Under such circumstances, Interpol acts not only as the mediator and the subject of interaction, but also as the agency, which directly organizes and coordinates the holding of search activities, takes an active part in ensuring extradition.

The diversity of tasks solved by Interpol necessitates a number of means. One of them is the use of abilities of the information and retrieval system I-24/7 the global telecommunication

system, which is created on the basis of the latest information technologies and provides high-quality and confidential round-the-clock direct access to the information resources of the General Secretariat of Interpol, and also allows the exchange of information between the NCB Interpol of different states.

Interpol is equipped with a Computerized Criminal Information System (ICIS), which allows searching for a wide range of information and helps to identify perpetrators, bank accounts used by them, names and addresses of legal entities involved in a crime. The Automated Search Facility (ASF) allows Interpol NCBs and the practical bodies to conduct electronic search of certain information in data banks. This system enables sending of images (for example, pictures or fingerprints) between Interpol NCBs of different countries. Important is the information and analytical support for Interpol's activities; in particular, the Analytical Criminal Intelligence Unit (ACIU), staffed by qualified analysts, analyses it professionally.

The Interpol inspection of the DNA profiles of persons suspected of committing crimes is commonly used during the investigation of crimes. Checking of handprints, fingerprint cards and DNA profiles with the help of databases of the General Secretariat of the Interpol is carried out in order to: (1) confirm (define) persons who were previously fingerprinted; (2) define an unidentified corpse of a person; (3) search missing persons; (4) define persons who have left fingerprints in the crime scene; (5) ascertain the facts of belonging the fingerprints to one person who committed different crimes; (6) define DNA profiles of a person's biological traces removed during the inspection of crime scenes of unsolved crimes; (7) define DNA profiles of a person (persons) suspected or accused of committing felony against another person.

The activities of the European Police Office or Europol (Evropol-Evropoan Police Office) are directly related to the issue of international cooperation in the investigation of crimes at the regional (European) level.

Europol is a specialized agency of the European Union, which coordinates the activities of the police and other competent authorities of the European Union, carries out collection, analysis and exchange of information concerning crimes and persons involved in commission of these crimes, and performs other tasks. Europol's competence extends to combating organized crime, terrorism and other forms of felony, including various forms of financial fraud affecting two or more Member States in a way that requires a common approach by all Member States, taking into account the extent, the significance and consequences of such crimes.

The basis of Europol's activities is the information management for the cooperation between competent authorities of the European Union countries in combating international crime. The information exchange system provides an opportunity for Europol Member States to exchange with each other, as well as with Europol and third States, in a secure mode, information necessary for conducting investigative and operational measures. Europol works closely with Interpol, as well as with other international organizations.

Europol extends its activities to the territory of Member States of the European Union. Europol also cooperates with the States which are not part of it. Thus, on December 14, 2016, the Agreement on Operational and Strategic Cooperation was signed between Ukraine and the European Police Office, which was ratified by the Law of Ukraine of July 12, 2017 (Agreement, 2015). Article 1 of the Agreement states that its purpose is to establish cooperation between Ukraine and Europol in order to support Ukraine and EU Member States in prevention and fight against organized crime, terrorism and other forms of international crime. Collaboration may include, according to the Europol Council Decision on Europol activities, the exchange of

information and expertise, general summaries, strategic analysis, information on criminal investigation procedures, information on crime prevention methods, participation in educational activities, as well as providing counseling and support in particular criminal investigations. The agreement will significantly strengthen the cooperation of the competent authorities of Ukraine with the European Police Office in combating financial fraud.

At present, handling of Euro integration direction of international cooperation in the area of combating crime is a priority, and covers a range of measures—from legislative changes to improving the practice of its implementation.

Describing the forms of international cooperation in the area of combating crime, let's pay attention to such an important and extremely common form of international cooperation as the international search.

Thus, on the one hand, the international search for criminals is one of the directions of international cooperation, it is applied to persons who are hiding from the investigation and the court; on the other hand, it is understandable that various forms of international cooperation may be used to achieve the goals of international search, and in particular, exchange of information, execution of international investigatory orders, etc. In this context, Karpov considers the international search as a separate institution of international cooperation of the States in combating crime, which is an integral part of it, and is inextricably linked with other forms of such cooperation (Karpov, 2011). It had to be acknowledged that the issue of international search is multidimensional and, in our view, requires separate research.

Such form of international cooperation as information exchange also deserves special attention.

This information may apply to: (1) signs of international crime (international crimes, crimes of an international character and common criminal offenses with international links (committed or being prepared); (2) individuals and legal entities involved in a crime, as well as victims; (3) composition, structure, sphere of activity and connections of an organized criminal group; (4) items that are the objects of criminal offense and are of interest to the investigation (narcotic substances, psychotropic substances and precursors, firearms and explosives); (5) traces of a crime, physical evidence which may help to clarify the circumstances of the crime under investigation (DNA materials, fingerprints, etc.).

The information exchanged between competent authorities during international cooperation in the area of combating crimes should be prompt, mutual, detailed and accurate. Such information should be provided in due form, defined by the international treaties and laws of the States (for example, referring to requirements for the request for international cooperation and the response to this request).

Non-procedural information exchange occurs between individual employees—the representatives of the competent authorities of the States. Such cooperation can be expressed in various forms—from counseling of representatives of individual units to the provision of background information. The information obtained in this way is of an indicative nature, promotes the adoption of procedural and tactical decisions.

An important task of international cooperation in the area of combating international crime is the investigation of relevant crimes, which, in turn, is characterized by a number of peculiarities. Among them are:

1. Regulation by international law and observance of the principles of reciprocity, sovereignty of States, which maintain a peculiar balance between the necessity of a fair implementation of the request for legal assistance or other forms of international cooperation and cooperation in general;
2. The possibility of refusal to execute the request for international cooperation if it may be damage to the sovereignty or security of the State or other important interests or if the requested information constitutes State secrets and for other reasons specified in international treaties or national legislation;
3. Special subjects of fulfillment of the given objectives and the used communication channels;
  1. Long periods of fulfillment of the objectives;
  2. Independence of the subjects of cooperation from each other;
  3. Geographical remoteness and cultural and linguistic differences of the subjects of cooperation, uncommon features of the procedural law of a foreign State (Nurbekov, 2012);
  4. The reliance of international cooperation results on the completeness and reliability of the information provided, as well as preliminary training.

Important are the technical and forensic aspects of international cooperation: providing of technical means, appropriate methodological support; exchange of expert methods of physical evidence research; exchange of technical means and methods of detecting narcotic substances, radioactive materials, explosives, etc.

Complicated but extremely important is the international cooperation, which is realized during tactical operations for the purpose of solving the problems of investigation of international crimes, involving the participation of representatives of the competent foreign agencies (Article 18-28 of the United Nations Convention against Transnational Organized Crime, 2000) (United Nations Office on Drugs and Crime., 2000), as well as in the international joint investigation teams.

According to Article 19 of the UN Convention against Transnational Organized Crime of 2000, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies (considering concluding bilateral or multilateral agreements or arrangements whereby).

Practical experience of Ukraine on this issue needs to be worked out. Though, the successful work of joint investigation teams within the European Union should be noted.

Consequently, another important form of international cooperation in combating international crime should be added to the list, which is the creation and operation of international joint investigation groups. The activities of international joint investigation groups are carried out in the form of interaction between the competent authorities of the States, their separate units and employees: investigators, operational workers, experts, prosecutors and performing the tasks.

The importance of this form of international cooperation is also due to accidents in the Eastern Ukraine on July 17, 2014, in particular the crash of the airliner during its flight MN-17 Malaysian Airlines, resulting in the death of 298 people from different countries of the world. This tragedy united the States in their fight against common danger and led to the creation of the first Joint Investigation Unit (JIT) in national practice. It includes representatives from Australia, Belgium, Malaysia, the Netherlands and Ukraine, as well as international organizations (International Civil Aviation Organization (ICAO), European Organization for the Safety of Air Navigation (Euro control), International Criminal Police Organization (Interpol), European Police Office (Europol), European Aviation Safety Agency (EASA), etc.). For Ukrainian part the

employees of the General Prosecutor's Office of Ukraine, the Kyiv Research Institute of Forensic Expertise, and other competent bodies were involved.

Thus, in addition to the above mentioned tasks, our state-Ukraine should work on improving national legislation for its maximum compliance with international law, as well as ensure harmonization of Ukrainian legislation with the legislation of European States.

## CONCLUSION

The current state of combating crime, which is becoming more and more international, demonstrates the need for more effective application of international cooperation measures. Nowadays the important task is to improve and increase the efficiency of the practice of implementing international cooperation, in particular, between authorized entities, international organizations. This is due to a number of factors: firstly, it is the quantitative increase in international crime, violating the interests of several States, improving the means and methods used by criminals; secondly, it is an obligation imposed by international and national legislation to fight them; thirdly, loss of the ability to collect evidence and indicative information during investigation of international crimes by the forces of only one State, without the application of international cooperation measures; fourthly, the differences in each State's legislation and in the practice of implementation of international cooperation measures require the formation of a common, coherent approach to the solution of practical problems.

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