



## **SUPERVISION ISSUES OF ANTICORRUPTION AUTHORITIES OF THE REPUBLIC OF UZBEKISTAN OVER THE IMPLEMENTATION OF LEGISLATION ON LEGAL ASSISTANCE IN CRIMINAL MATTERS**

Dr. Valijonov Daler Dilshodovich

Doctor of Philosophy in Law Acting Associate Professor of the Department of  
International Law and Human Rights of the Tashkent State Law University  
daler.valijonov1990@gmail.com

### **Abstract**

This scientific article provides a systematic analysis of the international legal foundations of cooperation in the fight against crime. In the article, the author tried to highlight the theoretical aspects of the issue of international cooperation of law enforcement agencies in the system of combating crime. It also analyzes the content and essence of the concepts of "international criminal group" and "international criminal community", which are considered relevant today. The author's comparative analysis on international conventions, declarations and legislation of foreign countries reflected the specifics of this article. Moreover, the relevance of the research topic is because the commission of such crimes is characterized by the use of modern technical means and high-tech facilities of air and land transport, a high transcontinental level of organization and real support of many, including illegal, financial sources. The predicted result of such activities was a significant increase in the number of serious crimes of a transnational nature.

### **Keywords**

Fighting crime, international cooperation, extradition, criminal group, law enforcement agencies.

### **Introduction**

To begin with, a new edition of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" was adopted on August 29, 2001. This law for the first time endowed the bodies of the Prosecutor's Office, represented by the General Prosecutor's Office of the Republic of Uzbekistan, with significant powers to implement international legal cooperation.

The General Prosecutor's Office of the Republic of Uzbekistan, within the limits of its powers, carries out direct contacts with the relevant competent authorities of foreign states and international organizations in the field of criminal proceedings, concludes





agreements on legal assistance and combating crime, and participates in the development of draft international treaties and their further approval.

Along with the Law on the Prosecutor's Office, the main forms of international cooperation between the prosecution authorities are listed in international agreements on cooperation in the field of criminal proceedings, agreements of the General Prosecutor's Office of the Republic of Uzbekistan with the competent authorities of foreign states.

It can be stated that the General Prosecutor's Office of the Republic of Uzbekistan actively participates in cooperation with foreign states in terms of the transfer of criminal proceedings: every year we receive up to 100 foreign criminal cases with requests for criminal prosecution of citizens of the Republic of Uzbekistan for acts committed by them on the territory of foreign countries. We send cases abroad to bring foreign citizens who have committed crimes on the territory of the Republic of Uzbekistan to justice.

International cooperation in the field of combating crime is one of the priority directions of the foreign policy of states. It should be noted that to ensure the safety of a person and a citizen from criminal encroachments, as well as to protect state interests, most countries of the world interact in the field of criminal justice based on international multilateral and bilateral treaties and agreements, as well as the principle of reciprocity [1].

Such interaction makes it possible to provide various legal assistance in criminal cases, transfer criminal proceedings, request extradition and extradite persons for criminal prosecution or execution of a sentence, as well as transfer persons suffering from mental disorders for compulsory treatment.

## **Methods**

When solving the assigned tasks, general scientific and special methods of scientific knowledge were used: historical, systemic, comparative legal, content analysis, logical and legal, etc.

In the aggregate, all these methods allowed to a certain extent to ensure the accuracy and validity of the research results.

## **Materials of Research**

For cooperation in criminal matters, states communicate with each other through their competent authorities, which they determine independently, based on their powers.





The identification of these bodies is of great importance for the successful implementation of the provisions of international treaties and national legislation in the fight against crime, as well as the protection of the rights of both the victim and the accused (suspect) [2, pp 90-92].

Speaking about statistics in this direction, it should be emphasized that as a result of the consolidated measures taken to prevent offences, the number of crimes reduced. For example, in 2017 the number of registered crimes compared to 2016 decreased by 16% (87 412 - 73 692). Also, over 11 months of 2019 in comparison to the same period in 2018 this number dropped by 37 % (67 345 - 44 885).

At the same time, one of the problems in ensuring the inevitability of liability is the evasion of the accused or defendant from inquiry, investigation and trial.

According to statistics, if in 2015 10.8 thousand persons were detained out of 22.9 thousand wanted persons (47.2%), then in 2016 11.2 thousand out of 23.6 thousand (47.5%) were arrested. Besides, in 2017 6.7 thousand out of 18.6 thousand (36%) and for 11 months of 2018 only 3.7 thousand out of 13.3 thousand (27.7%) wanted persons were detained.

As of November 1, 2018, 8,322 persons are wanted, of which 2,451 persons (29.5%) are wanted for committing a less serious crime that does not pose a great public danger and 5,871 persons (70.5%) - for committing a grave and especially grave crime. Of the wanted persons, 265 have been on the wanted list for over 20 years and 813 of them from 15 to 20 years. Also, 1,023 wanted persons have been on the wanted list from 10 to 15 years and 1 935 wanted persons have been on that list from 5 to 10 years. Besides, the wanted list includes 4 286 persons who have been on the wanted list for 5 years. A preventive measure was applied in the form of detention concerning 7,716 persons, and in the form of a signature on proper conduct concerning 606 persons. According to the available information, currently, 5,335 (64%) wanted persons are outside the Republic of Uzbekistan (4 persons - in Belarus, 11 - in Ukraine, 90 - in the EU countries, 1,358 - in Arab countries, 1,444 - in the states Central Asia, 2,236 in Russia and 192 in other countries) [3, pp 108-111].

So, during 2015-2017 and for 11 months of 2018, more than 27 billion Uzbek sums of the State budget were spent on the extradition of 1,453 (361 - 364 - 382 - 346) persons to the Republic of Uzbekistan.

Besides, due to the presence of restrictions in the legislation of foreign countries, there is no possibility of extradition of the wanted person, if the committed act is not criminally punishable in the country of residence, adoption of another citizenship and the absence of a preventive measure in the form of detention [4, pp 1078-1089].



Therefore, as of November 1, 2018, there are problems with the extradition of 40 wanted persons because the committed act is not criminalized in the host country, 64 - there is no preventive measure in the form of detention and 246 - have received citizenship of the host country.

### **Results of Research**

Under the provisions of the Criminal Procedure Code of the Republic of Uzbekistan on the procedure for interaction between courts, prosecutors, investigators and bodies of inquiry with the relevant competent authorities and officials of foreign states and international organizations, the functions of the prosecutor's office in matters of providing legal assistance have significantly increased.

So, following Article 458 of the Criminal Procedure Code of the Republic of Uzbekistan, the direction of criminal case materials for the implementation of criminal prosecution in the event of a crime committed on the territory of the Republic of Uzbekistan by a foreign citizen who later found himself outside its borders is carried out only through the General Prosecutor's Office of the Republic of Uzbekistan.

Accordingly, the request of the competent authority of a foreign state for the implementation of criminal prosecution against a citizen of the Republic of Uzbekistan who has committed a crime on the territory of this state is carried out through the General Prosecutor's Office of the Republic of Uzbekistan.

In some cases, to implement an international legal document, domestic legal acts may be adopted, prescribing law enforcement agencies to execute it.

In several CIS countries (the Republic of Kazakhstan, the Russian Federation, the Kyrgyz Republic, the Republic of Tajikistan, Turkmenistan, the Republic of Uzbekistan, the Republic of Azerbaijan), the powers to make decisions on extradition and to send requests for extradition are vested in the Prosecutor General's Offices of the states.

In some countries of the Commonwealth, two or more authorities are designated as competent authorities for extradition matters [5, pp 104-111].

In the course of international cooperation in this area, other problems arise. Therefore, for example, when criminal cases come from foreign states, difficulties arise in calculating the timing of the investigation.

It is known that there are differences (sometimes significant) in the national legislation of the parties. Therefore, when a criminal case is sent, it is necessary to focus on the procedural decision, which served as an analogue of the decision to initiate a criminal case.





This allows you to determine the stage of criminal proceedings under the legislation of the Republic of Uzbekistan.

Often the suspect (accused) has dual citizenship. However, according to the legislation of the Republic of Uzbekistan, a petition for criminal prosecution against a citizen of the Republic of Uzbekistan cannot be sent to another state.

After the final decision on the criminal case is made, the General Prosecutor's Office of the Republic of Uzbekistan checks the legality of this decision (including the verdict of the court). Then, following the provisions of the international treaty, the competent authority of the requesting party is informed. At the same time, a copy of the procedural decision is sent.

In case of disagreement with the adopted decision, the criminal case is sent for additional investigation or a new judicial review.

The current state of cooperation between the competent authorities of foreign states in the field of criminal prosecution testifies to mutual trust and the desire to increase its effectiveness.

Issues related to the implementation of criminal prosecution are relevant and are constantly discussed during international events with the competent authorities of foreign states [6, pp. 238-248].

Currently, the problem of international cooperation in the field of combating crime is acquiring special urgency.

This is because crime is increasingly becoming interstate in nature, in other words, globalization is to the greatest extent realized precisely in the criminal sphere of life of states.

This applies, first, to such dangerous phenomena as terrorism, human trafficking, drug trafficking, but also to more "everyday" crimes, the so-called general criminal orientation: murder, rape, bodily harm, etc.

In this regard, international cooperation between law enforcement agencies of different states is becoming increasingly important.

There may be several goals of establishing such cooperation, as well as the tasks that law enforcement agencies solve in the process of their implementation, as well.

The main goal of all states trying to fight crime is to identify and punish criminals, wherever they are, in their own country or abroad.

In this regard, treaties concluded between states in the field of combating crime are of paramount importance.

Such treaties can be considered international treaties in the form of conventions signed by most states, in particular European ones, as well as bilateral treaties on the provision of legal assistance between the law enforcement agencies of specific states.



Let us consider the advantages and disadvantages of both.

The extradition of persons to a foreign state for criminal prosecution or execution of a sentence is one of the most common examples of international legal cooperation in the fight against crime and one of the most controversial issues.

The problem of applying a preventive measure to ensure the possibility of such extradition is directly related to it. There are many contradictions and inconsistencies in the application of preventive measures and the extradition of criminals. There is no single scheme in this matter.

Thus, the legal assistance provided under international treaties in practice sometimes raises many questions.

In this regard, it becomes possible to solve them with the help of intergovernmental agreements on cooperation between law enforcement agencies of various states in the fight against crime and agreements on cooperation and legal assistance of an interdepartmental nature.

Such agreements have been concluded by the law enforcement agencies of the Republic of Uzbekistan with many law enforcement agencies of other states. However, not all of them work efficiently and quickly, and many of them cease to operate without prior notice.

The latter directly relates to the agreement between the law enforcement agencies of the Republic of Uzbekistan and the Ukrainian law enforcement agencies. A similar agreement between the Republic of Uzbekistan and Latvia does not work well enough. Once again, we have to state that the political interests of this or that state prevail over the realization of the rights and legitimate interests of ordinary citizens, even if they have committed crimes. By not returning such persons to their country because of political sympathies or antipathies, the leadership of these states violates not only the rights of these persons, even if they have committed a crime, but also the rights of their relatives and friends, who are deprived of the opportunity to find a relative or loved one.

There are two ways to get out of this situation. The first suggests itself based on the analysis of the practical application of multilateral agreements in the field of combating crime.

These agreements contain a large number of discrepancies and contradictions, references to national legislation, which has its characteristics in each country.

It is impossible to bring the procedures for the extradition and suppression of criminals in different countries to uniformity. There remains a second way - to work on bilateral agreements. Nevertheless, as practice has shown, it does not always give a positive result.





In this regard, it is necessary to bring our legislation in the field of international cooperation in the field of combating crime to a more perfect form and specificity to extradite both our and foreign criminals with the least loss of time and effort [7, pp. 253-262].

In our opinion, all the activities of law enforcement agencies to conclude both bilateral and multilateral international treaties in the field of combating crime should be accumulated in the prosecutor's office.

Summing up the above, it should be noted that in the conditions of widespread international criminal activity in order to increase the effectiveness of the fight against it, the issue of adopting a law supplementing the current Law of the Republic of Uzbekistan "On the Prosecutor's Office" with a new section devoted to the international interaction of prosecutors to ensure protection human and civil rights and freedoms, the fight against crime, and other offenses.

The adoption of this law will increase the legal status of the prosecutor's office of the Republic of Uzbekistan in countering international crime and strengthen measures to combat it on the part of our state.

Also, in the field of the international fight against crime, an essential part of which is the issue of extradition of criminals and the suppression of crime, considerable attention should be paid to bilateral government agreements between states.

### **Analysing of Results**

Analysis of the above legislative acts allows us to conclude that the main forms of international cooperation of the prosecutor's office of the Republic of Uzbekistan in the field of criminal proceedings are:

- 1) protection of the rights and legitimate interests of citizens in the course of international cooperation in the field of criminal proceedings;
- 2) organizing and ensuring the proper execution of requests for legal assistance in criminal cases coming from abroad and sent to foreign states;
- 3) implementation of criminal prosecution of those who are citizens of the Republic of Uzbekistan and have committed crimes on the territory of foreign states;
- 4) extradition of foreign citizens who are staying on the territory of the Republic of Uzbekistan and have committed crimes on the territory of foreign states;
- 5) participation in the development of international multilateral and bilateral treaties and agreements on the problems of combating crime and the provision of legal assistance;
- 6) conclusion and direct implementation of international treaties on mutual legal assistance in civil, family, criminal cases;





- 7) advice on legal issues;
- 8) exchange of delegations of specialists for the transfer of experience;
- 9) holding scientific and scientific-practical conferences, seminars, meetings of the heads of the prosecutor's offices on the fight against crime.

International cooperation of law enforcement agencies of the Republic of Uzbekistan with foreign states is one of the priority directions in the activities of the General Prosecutor's Office of the Republic of Uzbekistan.

Modern crime has acquired qualitatively new forms, its self-serving orientation has increased, the number of crimes with international connections has significantly increased, and an increasing number of international criminal groups are found, whose members are citizens of the Republic of Uzbekistan.

Thus, the trends of its development predetermine the need to create new effective mechanisms for international cooperation in the field of criminal justice.

It is advisable to note that increasing the coordination of law enforcement agencies in this area also requires the implementation in practice of the principle of ensuring the inevitability of punishment for a committed crime.

In this regard, it is currently relevant to improve practical interaction in one of the most important types of international cooperation in the field of criminal justice - the implementation of criminal prosecution, which contributes to the implementation of the principle of inevitability of punishment for a crime.

Interaction with foreign partners on it is the exclusive competence of the General Prosecutor's Office of the Republic of Uzbekistan.

Integration processes that are actively developing in the modern world are gradually bringing states closer together, making them more open for international communication. In these processes, along with obvious advantages, there is also such a downside as the intensive growth of transnational crime. In this regard, cooperation between law enforcement agencies of various states in the field of combating crime is becoming more and more important every year [8].

As already noted, one of the most important types of international cooperation in this area is the implementation of criminal prosecution, which undoubtedly contributes to the implementation of the principle of inevitability of punishment for a committed crime.

Following the legislation of the Republic of Uzbekistan, for a crime committed outside the borders of the Republic of Uzbekistan, citizens of the Republic of Uzbekistan and stateless persons permanently residing in the Republic of Uzbekistan are subject to criminal liability, if there is no foreign court decision against them.





As we know, the Republic of Uzbekistan does not extradite its citizens upon extradition requests of foreign states since it is prohibited under its legislation and, primarily, the Constitution of the Republic of Uzbekistan.

At the same time, it undertakes to carry out criminal prosecution on its territory against citizens of the Republic of Uzbekistan for crimes committed on the territory of other states. This approach is fully consistent with the international principle of "extradite or try".

The Republic of Uzbekistan participates in several dozen international treaties that provide for the possibility of criminal prosecution.

They can be conditionally divided into three large groups: multilateral treaties on legal assistance in criminal cases, multilateral treaties to combat certain types of crimes, and bilateral treaties on extradition and legal assistance in criminal cases.

Employees of the General Prosecutor's Office of the Republic of Uzbekistan and its local bodies should regularly analyze and generalize the practice and effectiveness of international cooperation and make proposals to the leadership of the General Prosecutor's Office of the Republic of Uzbekistan on measures to improve this activity. Prosecutors of the territorial level of the Republic of Uzbekistan in solving practical issues of cooperation and interaction with law enforcement agencies of other states and international organizations should proceed from the fact that all relations with law enforcement agencies of foreign states must be carried out through the General Prosecutor's Office of the Republic of Uzbekistan unless another procedure is directly established by international treaties of the Republic Uzbekistan.

The participation of prosecutors and investigators in international events should be coordinated with the leadership of the General Prosecutor's Office of the Republic of Uzbekistan and informed about the results of their implementation.

The positive experience of international cooperation of the prosecutor's office and its concrete results, the effectiveness of interaction between law enforcement agencies in this matter should be covered in the press and other mass media.

The objective processes of globalization and international integration determine not only the rapid development of innovative technologies, the expansion of economic, scientific, cultural and other ties in the world community but are also accompanied by the growth of organized international crime in the sphere of illegal circulation of weapons, narcotic and psychotropic substances, corruption, legalization proceeds of crime and human trafficking [9].

That is why the interaction of the prosecution authorities of the Republic of Uzbekistan and the competent authorities of foreign countries in the field of





combating crime and criminal justice is becoming the most popular and significant area of their activities.

It should be noted that the regulatory and legal basis for international cooperation of prosecutors of the Republic of Uzbekistan with the relevant competent authorities and officials of foreign states, as well as with international and interstate organizations in the field of combating crime, strengthening the rule of law and law and order are:

- 1) multilateral and bilateral treaties of the Republic of Uzbekistan with foreign states;
- 2) the Constitution and national legislation;
- 3) organizational and administrative acts of the Prosecutor General of the Republic of Uzbekistan (orders, instructions).

Currently, the Republic of Uzbekistan is a party to more than 300 multilateral and bilateral treaties on international cooperation. These treaties define the general conditions and obligations of the parties in the fight against crime, the procedure and forms of providing legal assistance in all criminal cases or cases of terrorism, drug trafficking, human trafficking and corruption, as well as the grounds and procedure for the extradition of persons for criminal prosecution and execution of sentences.

If the Republic of Uzbekistan is simultaneously a participant in multilateral and bilateral treaties, then in the event of a discrepancy between the rules established in them, the provisions of the multilateral treaty take precedence over the procedures of the bilateral treaty.

The main directions of international legal cooperation of the prosecution authorities of the Republic of Uzbekistan include interaction with the competent authorities of foreign states on issues of extradition (extradition), direction (execution) of orders for criminal prosecution.

Constructive interaction with the National Central Bureau (NCB) of Interpol under the Ministry of Internal Affairs of the Republic of Uzbekistan is of great importance for tracing criminals and creating conditions for their extradition.

## **Conclusion**

The effectiveness of international cooperation in the field of combating crime largely depends on the degree of legal regulation and organizational elaboration of the procedures for its implementation in each of the states.

In the structure of the General Prosecutor's Office of the Republic of Uzbekistan, issues of legal assistance in criminal cases are within the competence of the International Legal Department. There are positions of senior assistant prosecutors for international legal affairs in the staff of the regional prosecutors. However, the



degree of legal regulation of this direction of the prosecutor's office at the legislative level, in our opinion, needs more detail.

The responsibility of the prosecutor is also to maintain or refuse to maintain an application for the court to authorize extradition arrest. Organizational and procedural relations in the system of prosecutorial bodies in the provision of legal assistance are currently regulated at the level of departmental orders and instructions. Summing up, we believe that in the Law of the Republic of Uzbekistan "On the Prosecutor's Office" (new edition) it is necessary to regulate in more detail the organizational and procedural aspects of the participation of the Prosecutor's Office and its officials in the provision of international legal assistance in criminal cases. For this purpose, a special section could be distinguished in the structure of the law. The legislative level of regulation of such relations will be more consistent with the essence of the rule of law.

## References

1. The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders. (2002). Annual report for 2000 and resource material series No. 59. [https://www.unafei.or.jp/publications/pdf/RS\\_No59/No59\\_00All.pdf](https://www.unafei.or.jp/publications/pdf/RS_No59/No59_00All.pdf)
2. Valijonov, D. (2019). Issues of international cooperation of the prosecutors' office of the republic of Uzbekistan in the framework of interaction with international organizations. *O'zbekiston qonunchiligi tahlili*, (4), 90-92.
3. Rakhimov, F. K., & Valijonov, D. D. (2020, May). Some Issues of Improvement of the International Cooperation of Prosecutors Office of the Republic of Uzbekistan Under Digital Globalization. In 2nd International Scientific and Practical Conference "Modern Management Trends and the Digital Economy: from Regional Development to Global Economic Growth" (MTDE 2020) (pp. 108-111). Atlantis Press.
4. Sulaymanov, Odiljon, and Jurabek Rasulov. "Abolition Of Forced Labour: Case Of Uzbekistan." *Turkish Journal of Computer and Mathematics Education* 12.4 (2021): 1078-1089.
5. Egamberdiev Dilshod Alisherovich. The concept and meaning of joint investigative teams from the types of mutual legal assistance in criminal cases. *Journal of Law Research*. 2022, 7 vol., issue 8, pp.104-111
6. ВАЛИЖОНОВ, Д. (2021). ТЕОРЕТИЧЕСКИЙ АНАЛИЗ МЕЖДУНАРОДНО-ПРАВОВЫХ ОСНОВ СОТРУДНИЧЕСТВА ОРГАНОВ ПРОКУРАТУРЫ ПО БОРЬБЕ С ПРЕСТУПНОСТЬЮ. *ЮРИСТ АХБОРОТНОМАСИ*, 2(1), 238-248.





7. Thwaites, N. (2003). Mutual Trust in Criminal Matters: the European Court of Justice gives a first interpretation of a provision of the Convention implementing the Schengen Agreement. *German Law Journal*, 4(3), 253-262.
8. Hufnagel, S., McCartney, C. (2015). *Routledge Handbook of Transnational criminal law* (edited by Neil Boister, Robert J Currie). Routledge.
9. РАХМАНОВ, Абдумухтор. "МАРКАЗИЙ ОСИЁДА ИСЛОМ МОЛИЯ ҲУҚУҚИ: ТАРИХИ ВА БУГУНГИ КУН." *ЮРИСТ АХБОРОТНОМАСИ* 2.5 (2021): 8-14.

