

**INTERNATIONALE ZUSAMMENARBEIT IN STRAFSACHEN  
(BASIEREND AUF DER ANALYSE DER DEUTSCHEN UND  
UZBEKISCHEN GESETZGEBUNG)**

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**Anmerkung.** Der Artikel analysiert den bestehenden Mechanismus der internationalen Zusammenarbeit in Strafsachen zwischen europäischen Ländern. Es werden Meinungen zum Rechtsrahmen und zur Notwendigkeit der internationalen Zusammenarbeit in Strafsachen im europäischen System geäußert. Der Artikel analysiert insbesondere den rechtlichen Rahmen und Mechanismus zur Regelung der internationalen Zusammenarbeit in Strafsachen im deutschen Recht, und der Autor nimmt zur Notwendigkeit eines regionalen Mechanismus bei der Umsetzung der internationalen Zusammenarbeit in Strafsachen Stellung. Darüber hinaus schlägt der Autor vor, ein spezielles Gesetz „Über die internationale Zusammenarbeit in Strafsachen“ zu verabschieden, das die materiellen Normen der internationalen Zusammenarbeit in Strafsachen in unserem Land als Ergebnis der Analyse der deutschen und usbekischen Gesetzgebung widerspiegelt.

**Schlüsselwörter:** Internationale Zusammenarbeit, Strafsachen, Auslieferung, Staatsvertrag, Europäische Länder.

**INTERNATIONAL COOPERATION IN CRIMINAL MATTERS (BASED  
ON THE ANALYSIS OF GERMAN AND UZBEK LEGISLATION)**

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**Abstract.** The article analyzes the existing mechanism of international cooperation in criminal matters between European countries. Opinions are expressed on the legal framework and the need for international cooperation in criminal matters in the European system. In particular, the article analyzes the legal framework and mechanism for regulating international cooperation in criminal matters in German law, and the author comments on the need for a regional mechanism in the implementation of international cooperation in criminal matters. In addition, the author proposes to adopt a special law "On International Cooperation in Criminal

Matters", which reflects the material norms of international cooperation in criminal matters in our country as a result of the analysis of German and Uzbek legislation.

**Keywords:** international cooperation, criminal matters, extradition, international treaty, European countries.

As a result of the acceleration of globalization and integration processes in the world, the consolidation of efforts of states and cooperation in this area in new, effective forms remains one of the priorities attracting the attention of the international community.

The threat of crime to national security, its obstruction of political, economic and social development, in turn, requires appropriate measures to be taken, first of all, the fight against transnational crime at the international level. At the same time, despite the accumulated experience in international law on the implementation of the mechanism of international cooperation in the fight against crime, its systematization, creation of a single regulatory framework, legal cooperation in various forms of criminal justice, two and more within regional and universal international organizations, it should be noted that cooperation in the provision of comprehensive technical assistance, extradition of fugitives, repatriation to a country for execution of a court sentence is not sufficiently formed in accordance with the contemporary dangers.

Among the mechanisms of international cooperation in criminal matters, the issue of mutual legal assistance in criminal matters has a specific order among the EU member states.

We know that there are two major international organizations on the European continent - the Council of Europe and the European Union. Both generally promote issues such as human rights, democracy and the rule of law. After all, despite the fact that their tasks are different, they complement each other throughout their activities. The Council of Europe, by uniting the governments of European countries, adopts minimum legal standards on a wide range of issues. The European Union regulates the deepening of political and economic integration processes of member states. International legal documents and agreements adopted under it are adopted mainly on the basis of Council of Europe standards. The Council of Europe's many years of experience and practice have been the basis for expanding its activities in many areas. In particular, such areas as the fight against crime, international cooperation in criminal matters have developed [1].

The current mechanism of international cooperation in criminal matters between European states is the European Convention on Extradition of 1957, Additional Protocols I, II, III, IV to the Convention, the European Convention on Mutual Legal Assistance in Criminal Matters of 1959 and I, Additional Protocols II are based on fundamental international legal instruments, such as the 1972 European Convention on the Transfer of Criminal Proceedings and the 1983 European Convention on the Transfer of Prisoners [2].

The European Extradition Convention of 1957 is the most successful of its kind, and its provisions are supplemented by another important legal instrument, the

European Convention on the Suppression of Terrorism of 1977, which regulates the non-extradition of persons accused of political crimes. [3, pp. 44-45].

At the same time, the Council of Europe's concept of mutual recognition of court decisions in Tampere (15-16 October 1999) played an important role in reforming the existing mechanism. As mentioned, it should be "the foundation of judicial cooperation in civil and criminal cases within the Union" [3, pp. 47-48].

Recognition of the judgments meant that the document issued by the organ of the Member State would be recognized and enforced within the ipso facto Union. Mutual recognition is one of the fundamental principles of the Alliance's mutual cooperation, which has changed the usual views on international cooperation in criminal matters [4, pp. 200-217].

It is known that such cooperation is based on other legal principles of legal assistance, extradition, transfer of convicts, transfer of criminal proceedings and similar areas of cooperation. The concept of mutual recognition in the field of international cooperation in criminal matters differs from the usual cooperation of the State in criminal matters in the territory of one State Party, the decision of which is based on its national legislation is automatically recognized by other participants. The question arises as to whether such an approach would primarily lead to the loss of control over the enforcement of court decisions in national territories from the hands of a sovereign state [5, p. 10]. But the principle of mutual recognition is not a new principle that has not been put into practice within the Union. Mutual recognition is the fundamental basis of EU domestic market law, is recognized in the decisions of the Court of Justice of the European Union and is applied in the process of unification of the legislation of the member states of the Union [6, p. 65]. It has also been used in civil and commercial relations within the European Union before mutual recognition [7], [8, pp. 935-953]. Therefore, the action of this principle is based on the issue of expanding the EU member states' confidence in national judicial systems, recognizing the rule of law and ensuring human rights in criminal proceedings [9, pp. 253-262].

Thus, the practical result of the principle of mutual recognition of court decisions in the field of international cooperation in criminal matters has led to the free movement of court decisions issued by the competent judicial authorities of the EU member states.

However, the implementation of this concept required legal measures covering various stages of criminal proceedings. Therefore, on 12 February 2001, the European Union adopted a Program of Measures to Implement the Principle of Mutual Recognition of Criminal Judgments [10]. The program identifies priorities and specific measures for implementation, including the European arrest warrant. This is a procedural mechanism of international cooperation in criminal matters applied in the system of international co-operation in criminal matters on the European continent and radical change was achieved on the basis of the Council of Europe's Resolution of 13 June 2002 "On the European Order of Arrest and Extradition between Member States" [11, p. 134].

The adoption of this decision introduced a new form of combating crime, the concept of terminology "surrender" in the international legal community [12, pp. 39-46]. Pursuant to Article 1 of the Decision, a European warrant for arrest shall be construed by a State Party to issue a judgment in respect of a person who is wanted in a criminal case for arrest or extradition to another State Party, who has been arrested to carry out security measures related to punishment or imprisonment [13].

The European Arrest Order replaced the bilateral extradition treaties for EU member states based on the 1957 European Convention on Extradition and a number of other "request" principles. According to him, the request for extradition was sent to the participating state ministry, which has a wide range of options in the field of extradition of a wanted person, in most cases, for political reasons.

This means that the transfer of individuals with a specific identity within the framework of the European Union's mechanism for international cooperation in criminal matters is a process that does not apply the rule of non-extradition of its citizens. Therefore, it is advisable not to apply this practice to the Republic of Uzbekistan. Because the extradition of citizens of our country is explained by the violation of the constitutional norms of our state, the loss of public confidence in the state, threatening the security and sovereignty of the state.

In addition to the mechanisms of international cooperation in criminal matters analyzed above, the issue of mutual legal assistance in criminal matters also has a specific order among the EU member states. In particular, the issues of mutual legal assistance and extradition in criminal cases in the Federal Republic of Germany are regulated by a special law [14].

According to the law, the extradition process, the scope of mutual legal assistance and, most importantly, the mechanism of international cooperation in criminal matters with EU member states are defined in detail. In addition, in the absence of an agreement between the FRG and other foreign states, a separate one-time agreement is signed or based on the principle of reciprocity [15, pp. 204-220].

The principle of reciprocity is one of the basic principles of international cooperation, because any cooperation must be mutually beneficial. This principle has long been known in criminal law. Cooperation between states is sometimes so multifaceted that their relations become so complex that specific issues are overlooked during the conclusion of the treaty. In such cases, the importance of the principle of reciprocity increases. This principle is based on the fact that the state requested to extradite the offender hopes that in the future this state will also respond accordingly.

In the words of R.A. Sayfulov, "this principle plays a key role, especially in the application of the institution of extradition, and it is necessary to strengthen it in the national legislation" [16, p. 10].

It should be noted that this principle requires the fulfillment of a number of conditions. The opinion of the Bulgarian scientist V. Kutikov on this issue is noteworthy. He writes that "while two or more states form their relations on the basis of reciprocity, they are not satisfied with the usual equality that provides for the

contractual regulation of such relations. In essence, their goal is greater: their mutual rights and obligations must be organized in such a way as to achieve full mutual harmony. That is, the rule is followed that one party exercises its rights and obligations only if the other party responds in the same way”[17, p. 60]. Such a rule can also be found in FRG legislation. Indeed, German lawyers believe that the principle of reciprocity is a moral and spiritual norm applied in the conduct of public policy of the state. In addition, they emphasize that this principle requires mutual trust between states in order to achieve positive results in the implementation of international cooperation in criminal matters [18, p. 9].

In addition, the FRG is a party to the European Convention on Extradition of 1957, which regulates the mechanism of international cooperation in criminal matters between European countries, and Additional Protocols II and III to this Convention, to the treaties such as the 1959 European Convention on Mutual Legal Assistance in Criminal Matters and its Additional Protocols I and II, as well as the 1983 European Convention on the Transfer of Prisoners and its Additional Protocol [2].

The issue of international cooperation in criminal matters can be seen in the existence of three different mechanisms based on multilateral and bilateral agreements signed between states and German national legislation. These are regulated as follows: 1) through diplomatic ways; 2) through the competent authority (Ministry of Justice); 3) Directly.

The mechanism for international cooperation in criminal matters through diplomatic channels is usually based on bilateral or multilateral agreements or the principle of reciprocity between states. Therefore, a state requesting international cooperation in criminal matters in the FRG should first send the request to the FRG Ministry of Foreign Affairs. After the Ministry has instructed the Federal Office of Justice to execute the request, the Office shall forward the request to the Ministries of Justice of the Federal Lands on the basis of territorial affiliation. The prosecutor's office and the judiciary will initiate the relevant process after receiving a request from the Ministry of Justice for international cooperation in criminal matters. International co-operation shall take place through the said mechanism after a decision has been made on the satisfaction or rejection of the request submitted by the requesting State.

In the presence of interdepartmental bilateral and multilateral international agreements, a request for international cooperation in criminal matters can also be sent through the ministry in FRG. This situation helps to ensure speed, accuracy and convenience in the implementation of this cooperation.

Finally, it appears that the state prosecutor's office, which seeks international co-operation in criminal matters under a direct co-operation mechanism, appeals directly to the FRG prosecutor's office. This is determined by special agreements [19].

It should be noted that the status of court and prosecutorial staff in the GFR is the same. However, the functional are different. Both belong to the executive branch in organizational terms. The court makes the decision and the prosecutor executes. The prosecutor has no oversight function. His job is just to basically investigate. We

know that the German Federation is divided into 16 federal lands. Each of them has a separate state administration, court and parliament.

Therefore, according to Article 32 of the German Constitution, interstate relations are carried out by the Federal Government, and, if necessary, the signing of international agreements for federal lands is allowed with the consent of the Government [20]. The issue of mutual legal assistance is also provided for in the territory of the Federation, where federal lands provide information related to their federal lands and transfer their powers to the executive bodies. In doing so, it is based on the principles of foreign policy and mutual assistance (reciprocity, double jeopardy, specialization). Enforcement agencies (prosecutors, courts, police) directly carry out the requested action in accordance with national law [21].

The above-mentioned various forms of cooperation are also implemented in the Republic of Uzbekistan. One of the important results of the ongoing reforms in the judicial sphere in our country has been the introduction of the institute of international cooperation in criminal proceedings in our criminal procedure legislation. The legal basis for international cooperation in criminal matters is international treaties ratified by the Republic of Uzbekistan, relevant legislation of the Republic of Uzbekistan, in particular, criminal and criminal procedure legislation, in particular, the relevant legislation of the participating states in accordance with international agreements. Based on this, the following forms of international cooperation in criminal matters can be observed in Uzbekistan:

- Treaty-legal form;
- A form of implementation based on the principle of reciprocity;
- Form of implementation on the basis of institutional mechanism.

International legal cooperation, carried out on the basis of a treaty form, is the activity of international cooperation in criminal matters through multilateral and bilateral agreements between the state and the government and the competent authorities representing the states.

Another form of international cooperation in criminal matters of the Republic of Uzbekistan is the implementation of cooperation on the basis of reciprocity, in the absence of mutual agreement or treaty between the states. According to Article 592 of the CPC of the Republic of Uzbekistan, when it is necessary to perform the procedural actions provided for in the CPC in the territory of a foreign state, the competent authorities may request that these actions be performed by the competent authority of a foreign state. The principle of reciprocity has a special character in the legislation of the Republic of Uzbekistan, according to which the competent authority of a foreign state that sent a request for extradition in the territory of our country in a similar situation at the request of the competent authority of the Republic of Uzbekistan [22].

On the basis of the institutional mechanism, the cooperation of the Republic of Uzbekistan with international organizations in the fight against and prevention of crime is envisaged. Such an organizational legal form of cooperation is effective and is based on the common position of the states, taking into account the national

interests of the member states. Today, our country cooperates with UN specialized agencies, universal and regional international organizations such as Interpol, the CIS and the SCO. It is a party to multilateral agreements on international crime, transnational crime and crime prevention in order to carry out international cooperation in criminal matters with these organizations.

It should be noted that the Republic of Uzbekistan cooperates on the principle of reciprocity, despite the fact that it has almost no agreements with European countries on international cooperation in criminal matters. For example, from 2013 to 2019, our country sent a request for mutual legal assistance to Italy, Germany, Austria, the Netherlands and the United Kingdom [23].

However, the implementation of international cooperation in a non-contractual form can lead to various misunderstandings between states, an increase in the grounds for refusal, and as a result, a negative change in relations between states. This is because it has become an international custom to apply the requested state legislation in international cooperation based on the principle of reciprocity. Although these European conventions are regional in nature, they can be acceded to with the consent of all member states [2]. Therefore, the most optimal solution to such problems can be seen in the accession of the Republic of Uzbekistan to European conventions on international cooperation in criminal matters. As a result, acceding to these agreements will allow for the application of the simplified extradition process, prevent the growth of various misunderstandings and grounds for refusal between states, cooperate in the provision of documents on financial crimes, exchange of judicial information, exchange of information and evidence on mutual legal assistance. Procedural timeframes for delivery will be shortened, and the rules related to the expiration of the deadline, the application and supporting documents, the rules of specialization, transit, re-extradition to a third country and issues related to communication channels and means will be harmonized.

In general, it should be noted that the directions and forms of international cooperation in criminal matters in accordance with the laws of Germany and Uzbekistan are traditionally based on international criminal and criminal procedural law, the fight against crime and international cooperation in this field. can be seen. In our view, in studying such problems and dividing them into specific directions, it is necessary to identify the main directions arising from international agreements, which define specific procedural actions, goals and objectives.

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