

LEGAL REGULATION OF INTERNATIONAL COOPERATION OF THE STATE BUREAU OF INVESTIGATION

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Abstract. Criminal proceedings investigated by the State Bureau of Investigation in Ukraine are high profile, which is explained by the subjects of their commission, and therefore cause increased public interest. Considering the above, it is relevant to research the legal regulation of international cooperation of the State Bureau of Investigation for the purpose of effective investigation of criminal offenses investigated by this law enforcement agency. **Methodology.** An appropriate set of methods is used to implement the research purpose. The hermeneutic method contributed to the clarification of the concept and content of international cooperation in the field of law enforcement, as well as the interpretation of the provisions of legal acts in the field of combating crime. Using the historical method, the process of establishing the legal regulation of international cooperation of the State Bureau of Investigation is characterized. With the help of the system-functional method, the cooperation of the State Bureau of Investigation is investigated through the prism of its various elements: regulatory support, subjects, and directions. **Results.** An analysis of the legal regulation of international cooperation of the State Bureau of Investigation is carried out. International acts that serve as the basis of international cooperation of law enforcement agencies are singled out. National-level regulatory acts related to the cooperation of the State Bureau of Investigation are highlighted. Attention is drawn to the departmental legal acts that fix the areas of cooperation, the powers of the heads of investigative units of the central apparatus, territorial administrations, the International Cooperation Office of the State Bureau of Investigations in the Field of International Cooperation, the criteria for evaluating the effectiveness of international cooperation. The main directions for establishing relations between the State Bureau of Investigation and international partners are clarified.

Keywords: the State Bureau of Investigation, international cooperation, legal regulation, crime prevention, law enforcement agencies.

1. Introduction

Combating crime is one of the important areas of international cooperation. Crime exerts a destructive influence not only within the boundaries of an individual state, but also for the world community as a whole, because in the conditions of modern globalization processes and informatization of society, it can have an international character. Moreover, the criminal proceedings investigated by the State Bureau of Investigation in Ukraine are high profile, which is explained by the subjects of their commission, and therefore cause increased public interest. Considering the above, it is relevant to research the legal regulation of international cooperation of the State Bureau of Investigation for the purpose of effective investigation of criminal offenses investigated by this law enforcement agency.

Representatives of the Ukrainian scientific community pay attention to the problems of international cooperation of law enforcement agencies of Ukraine in the field of combating crime, including: S. Perepilkin, G. Zharovska, A. Kalaida, I. S.o. Nurullaev, S. Veremienko, L. Sozanska, I. Kurbatova, V. Gavrilyuk, V. Dubina, M. Danylyuk, A. Solonar, I. Legan, O. Yemets, A. Voytsikhovskiy and others. At the same

time, it should be noted that a comprehensive study of the problematic issues of international cooperation by the State Bureau of Investigation is left out of the attention of scientists, so it requires additional scientific research.

The purpose of the article is to analyze the legal regulation of international cooperation of the State Bureau of Investigation.

2. Research methodology

An appropriate set of methods is used to implement the research purpose. The hermeneutic method contributed to the clarification of the concept and content of international cooperation in the field of law enforcement, as well as the interpretation of the provisions of regulatory and legal acts in the field of combating crime. Using the historical method, the process of establishing the legal regulation of international cooperation of the State Bureau of Investigation is characterized. With the help of the system-functional method, the cooperation of the State Bureau of Investigation is investigated through the prism of its various elements: regulatory support, subjects, and directions.

3. Results

In Ukraine, one of the areas of implementation of the Concept of State Policy in the field of combating organized crime is the continuation of international cooperation between domestic law enforcement agencies and relevant agencies of foreign countries. The problem of combating organized crime is supposed to be solved, including by strengthening international cooperation. It is proposed to increase the level of interaction between law enforcement and other state bodies in the fight against organized crime, to improve interdepartmental cooperation of controlling and law enforcement bodies [1].

Analyzing international cooperation in the field of law enforcement as one of the areas of international cooperation in the fight against crime, S. Perepyolkin proposes the following definition of it: 'international cooperation in the field of law enforcement is one of the types of joint activity of states aimed at coordinating their interests and achieving common goals in solving law enforcement activities on the basis of generally recognized principles and norms of international law'. International cooperation in the field of law enforcement activities, in his opinion, 'comes down to the regulation and development of various types of international relations, usually on issues, the solution of which depends on ensuring security both within a certain geographical region and the whole world (for example, the development of uniform standards of international law enforcement cooperation, organizing and holding seminars and training courses), as well as, and this is the main thing, ensuring one's own domestic interests and security", and therefore it can be considered as one of the directions of international cooperation in the fight against crime [2].

Another scientist L. Frolova emphasizes that the international cooperation of states is carried out in accordance with the Charter of the United Nations and the Declaration on the Principles of International Law, which is one of the most important international legal principles, which is based on the need for cooperation between them. This principle obliges states to cooperate regardless of their political, economic, social and legal systems. International cooperation in criminal justice is a complex legal institution that encompasses the norms of criminal, criminal procedural and international law [3].

Researcher L. Sozanska defines international cooperation in the fight against corruption as a system of relations between states represented by their bodies, international governmental and non-governmental organizations, transnational corporations and other organizations in the field of combating corruption, which includes agreed policies, anti-corruption strategies and tactics, the development of international agreements, their implementation into the internal legislation of states, law enforcement, organizational and legal, informational and scientific research activities of the relevant subjects of cooperation in the

prevention of corruption, direct fight against it on the basis of international legal documents and the provisions of national legislation adopted in accordance with them [4].

The Constitution of Ukraine of June 28, 1996 acts as the fundamental act regulating any state processes. Its provisions do not contain direct instructions for the organization of international cooperation in the field of combating crime, but they fix other important aspects. In particular, Article 8 recognizes the operation of the principle of the rule of law in Ukraine, as well as that the Constitution of Ukraine has the highest legal force, laws and other normative legal acts are adopted on the basis of the Constitution of Ukraine and must comply with it. In addition, Article 9 stipulates that current international treaties, the consent of which is binding by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine. The conclusion of international agreements, which contradict the Constitution of Ukraine, is possible only after making appropriate changes to the Constitution of Ukraine [5].

International cooperation in the fight against crime has a strong historical basis: long before the very idea of international law appeared, states cooperated on specific issues of combating crime. It is known that even in the times of the Ancient World and the Middle Ages, one of the types of cooperation was the conclusion of bilateral agreements on the extradition of criminals. The adoption of the UN Charter marked a new stage in the development of international cooperation of states in the fight against crime. A number of international documents, in particular the UN Charter, the Vienna Convention on the Law of International Treaties of 1969, the Declaration on the Principles of International Law of 1970, established one of the main principles of international law - the principle of cooperation between states, which is a *jus cogens* norm [6].

In order to more effectively prevent and combat transnational organized crime, the United Nations Convention against Transnational Organized Crime and its Protocols were adopted by General Assembly Resolution 55/25 of November 15, 2000. Ukraine ratified it with reservations and applications by the Law of Ukraine dated February 4, 2004. Important for our research are provisions relating to cooperation between law enforcement agencies. In accordance with Article 27 of this Convention, States Parties shall cooperate closely with each other, acting in accordance with their domestic legal and administrative systems, in order to increase the effectiveness of law enforcement measures to combat the crimes covered by this Convention. Each participating State, in particular, takes effective measures aimed at:

a) strengthening, or where necessary, establishing channels of communication between their competent authorities, institutions and services in order to ensure reliable and prompt exchange of information on all aspects of the crimes covered by this Convention,

including, if the States Parties concerned consider it is appropriate, connections with other types of criminal activity;

b) cooperation with other States Parties in conducting investigations in connection with crimes covered by this Convention, with the aim of identifying:

i) the identity, location and activities of persons suspected of participating in the commission of such crimes, or the location of other involved persons;

ii) transfer of proceeds from crimes or property obtained as a result of committing such crimes;

iii) movement of property, equipment or other means used or intended for use in the commission of such crimes;

c) providing, as appropriate, the necessary objects or the necessary quantity of substances for the purposes of analysis or investigation;

d) promoting effective coordination between their competent authorities, institutions and services and encouraging the exchange of staff and other experts, including, subject to the conclusion of bilateral agreements or arrangements by the States Parties concerned, the deployment of liaison staff;

e) exchange with other participating States information about specific means and methods used by organized criminal groups, including, where appropriate, routes and means of transport, as well as the use of forged identity cards, altered or forged documents or other means of concealing their activities;

f) exchange of information and coordination of administrative and other measures taken in appropriate cases for the purpose of early detection of crimes covered by this Convention [7].

The norms concerning international cooperation during criminal proceedings are contained in the Criminal Procedure Code of Ukraine. According to Article 542, international cooperation during criminal proceedings consists in taking the necessary measures to provide international legal assistance by serving documents, performing certain procedural actions, extradition of persons who have committed a criminal offense, temporary transfer of persons, taking over criminal prosecution, transfer of convicted persons and execution of sentences. An international treaty of Ukraine may provide for other forms of cooperation during criminal proceedings than those in this Code. As for international legal assistance, according to Part 1 of Article 541, it provides for the conduct of procedural actions by the competent authorities of one state, the performance of which is necessary for a pre-trial investigation, trial or for the execution of a sentence passed by a court of another state or an international judicial institution [8].

The Law of Ukraine "On the State Bureau of Investigations" is the fundamental legislative and regulatory act that establishes guidelines for the organization, activity and cooperation of the State Bureau of Investigation. In particular, Clause 15 of Part 1 of Article 6 indicates that the State Bureau of Investigation, in accordance with the tasks assigned to it and

within the limits of its competence, cooperates with the police and other relevant bodies of foreign countries in accordance with the laws and international treaties of Ukraine [9].

Among the departmental regulations establishing the administrative and legal principles of international cooperation of the State Bureau of Investigations, the Order of the State Bureau of Investigations No. 193 "On the organization of the work of the State Bureau of Investigations in the field of international cooperation" dated March 29, 2021 should be singled out. The significance of this Order lies in the fact that it established the directions of cooperation, the powers of the heads of investigative units of the central apparatus, territorial administrations, the Office of International Cooperation of the State Bureau of Investigations in the Field of International Cooperation, and the criteria for evaluating the effectiveness of international cooperation.

The Department of International Cooperation of the State Bureau of Investigation, which is entrusted with the following powers, is defined as the main unit for international cooperation:

- organization of the implementation of requests by the competent authorities of foreign countries to take over criminal proceedings, as well as requests for international legal assistance, verification within five days from the time of receipt of the materials of their implementation by the Office of International Cooperation of the State Bureau of Investigation for compliance with the requirements of the current legislation and international treaties of Ukraine, provision of the necessary methodical and practical assistance;

- ensuring that requests of the State Bureau of Investigations on international cooperation are brought into compliance with the requirements of current legislation and international treaties of Ukraine within 10 days from the time of their receipt by the Office of International Cooperation of the State Bureau of Investigations, as well as providing the necessary methodological and practical assistance during their drafting;

- interaction with relevant divisions of the Office of the General Prosecutor and the Ministry of Justice of Ukraine, other state bodies on issues of international legal cooperation;

- organization of the participation of representatives of the State Bureau of Investigation in events of an international nature (meetings, negotiations, conferences, seminars, etc.), holding such events in Ukraine with the involvement of foreign specialists for the purpose of studying modern investigative practice and the practice of operational and investigative activities, organization of the State Bureau of Investigations employees training abroad;

- coordination of activities of independent structural divisions of the central apparatus and territorial offices of the State Bureau of Investigation within the framework of implementation of international cooperation programs and measures, exchange of expe-

rience with competent institutions of foreign states and international organizations, preparation of memorandums of cooperation that do not contain international legal obligations, development proposals for projects of international agreements and improvement of the legal framework of cooperation, as well as provision of advisory and methodical assistance;

- organization of activities of an international nature, aimed at the development of international cooperation, as well as improvement of business relations of the State Bureau of Investigation with the police and other relevant bodies of foreign countries, international organizations in accordance with the laws and international treaties of Ukraine;

- carrying out contacts with embassies and consular institutions of foreign countries, representative offices of international organizations in Ukraine in accordance with the established procedure and in accordance with the competence, participation on behalf of the leadership of the State Bureau of Investigations in meetings with representatives of these institutions on the activities of the State Bureau of Investigations, as well as other powers [10].

In the context of international cooperation, an important role is played by the provisions of the Instruction on the procedure for the use of the information system of the International Criminal Police Organization - Interpol by law enforcement agencies of Ukraine, approved by the Order of the Ministry of Internal Affairs of Ukraine, the Office of the Prosecutor General, the National Anti-Corruption Bureau of Ukraine, the Security Service of Ukraine, the State Bureau of Investigation, the Ministry of Finance of Ukraine, the Ministry of Justice of Ukraine dated August 17, 2020. According to the Instructions, the goals of international cooperation using the Interpol information system are:

- establishing the location of wanted persons for the purpose of their detention, arrest, restriction of freedom of movement and subsequent extradition;

- establishing the location of persons or objects of interest to law enforcement agencies of Ukraine or other Interpol member states;

- providing or receiving information related to the investigation of crimes, criminal history or criminal activity of persons;

- providing or receiving information for the purpose of warning about persons, events, objects, methods of committing crimes, which pose a real threat to public safety and order and can cause significant damage to property or citizens;

- identification of persons or unidentified corpses;
- conducting forensic investigations;

- providing or receiving information on issues of public safety and order;

- identification of threats, organized groups and criminal organizations, trends in the development of crime;

- exchange of experience in the fight against crime and law enforcement activities [11].

In order to fulfill its tasks, the Strategic Program of the State Bureau of Investigation for 2017-2022 highlights the need to establish and strengthen cooperation with international partners, which concerns:

- expert assistance of leading international organizations regarding the development of normative legal documents, formation and development of the State Bureau of Investigation;

- trainings and education of the Bureau employees;

- exchange of experience and information;

- cooperation in accordance with the laws and international treaties of Ukraine with the police and other relevant bodies of other states, including in relation to: searching for suspects who are hiding from the investigation and the court; return to Ukraine from abroad of funds and other property withdrawn during the commission of crimes;

- cooperation with international, intergovernmental organizations, networks, activities in the field of detection, search and management of funds, property and other rights that can be seized in criminal proceedings on crimes investigated by the Bureau [12]. It should be noted that the practical implementation of these areas of cooperation requires appropriate legal support for the order, subjects and forms of such joint activity. In addition, it is worth defining in more detail the priority states and international organizations for establishing cooperation in the field of combating crime.

4. Conclusions.

The analysis of the legal regulation of international cooperation by the State Bureau of Investigation testified to the existence of a number of aspects that require additional theoretical and legal coverage. Modern challenges in the field of investigation of the State Bureau of Investigation lead to the activation of cooperation with law enforcement agencies not only of Ukraine, but also of foreign countries and international organizations.

The research of the legal regulation of international cooperation by the State Bureau of Investigation allows the following conclusions to be drawn.

1. The legal foundations of international cooperation of the State Bureau of Investigation are contained in international acts, as well as national legislation.

2. The State Bureau of Investigation is a new law enforcement agency, therefore, for its establishment as an effective law enforcement agency, it is advisable to borrow positive global practices of combating crime. This seems to be possible under the condition of establishing bilateral cooperation with similar bodies of other states, as well as cooperation within international organizations and networks.

3. The issues of optimal forms of international cooperation of the State Bureau of Investigation, the procedure for concluding cooperation memoranda, and the identification of appropriate subjects of cooperation are relevant for further scientific investigations.

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