

## COOPERATION OF THE LAW ENFORCEMENT ORGANIZATION

### ХУУЛЬ САХИУЛАХ БАЙГУУЛЛАГУУДЫН ХАМТЫН АЖИЛЛАГАА



**Ж.ЯЛАЛТБАЯР**

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**Abstract:** in this article I have reviewed the foreign and domestic cooperation activity of the law enforcement organizations, concept of the law enforcement international operation, its direction and objectives, the International Criminal Police (Interpol) and the actual problems of international cooperation of the law enforcement agencies.

**Товч аутга:** Энэ илтгэлд хууль сахиулах байгууллагуудын гадаад, дотоод хамтын ажиллагааны товч мэдээлэл, олон улсын хууль сахиулах байгууллага, олон улсын хууль сахиулах үйл ажиллагааны тухай ойлголт, чиглэл, судлах зүйл, олон улсын эрүүгийн цагдаа (Интерпол) болон хууль сахиулах байгууллагуудын гадаад хамтын ажиллагааны тулгамдсан асуудлуудыг авч үзлээ.

**Key words:** International law enforcement agencies, International law enforcement activities, direction, discipline, cooperation

**Түлхүүр үг:** олон улсын хууль сахиулах байгууллага, олон улсын хууль сахиулах үйл ажиллагаа, чиглэл, судлагдахуун, хамтын ажиллагаа

For the modern international relations it is characterized by the expansion of international cooperation in various fields. Particularly in recent years it is rapidly developed cooperation in the fight against crime, which is a key to the successful development of other areas for cooperation between the states.

International co-operation is carried out on the basis of specific bilateral and multilateral agreements, in scale which of it is established supranational, intergovernmental organizations.

In any country, traditionally, the public authorities established to protect the human rights and freedom, to fight against crime are called "law enforcement." It should be noted that there is no common law approach to this concept among the scientists, so consequently there is a list of organizations that refer to law enforcement authorities<sup>1</sup> [1]

By analogy, it is advisable to introduce the concept "*international law enforcement organization*", highlighting the existing organizations which carry inherently the international law enforcement activity.

The term *international law enforcement activity*, in our opinion, should be understood international activity, which is aimed to establish and develop international

<sup>1</sup> Гуценко К.Ф., Ковалев М.А. Правоохранительные органы: Учебник / Под ред. К.Ф. Гуценко. М., 2000. С. 12 – 14.

cooperation in the legal field in order to maintain peace and strengthen international security, to protect the legitimate rights and interests of the states, people, nations and human, fight against transnational crime, promoting the efficiency of justice and to ensure fair implementation of the subjects of international law with its international obligations, based on the system of international treaty and customary norms established by States and other subjects of the international law<sup>2</sup> [2].

The international law enforcement activity can be divided into *two main directions*. Firstly, it is activities of various international organizations to resolve disputes, protection of violated rights of the different subjects. Usually this activity is carried out by the courts, and therefore this direction can be called "international judicial activities." In the academic literature there is also the concept of "international justice"<sup>3</sup> [3]. Note that the term "judicial activity" is broader concept than "justice", because it includes both the implementation of justice by the courts, scilicet, "law enforcement to address and resolve... affairs subordinate courts under strict observance of the law and established procedure to ensure the legality, validity, fairness and universal validity of judgments"<sup>4</sup> [4], and enforcement of judgments, explanations on issues of judicial practice, etc. This situation, in our opinion, is true for the concepts of "international judicial activities" and "international justice". For example, the European Court of Human Rights in accordance with Articles 33 and 34 of the Convention for Protection of the Human Rights and Fundamental Freedom, resolves disputes between the parties relating to infringements of the provisions in the named Convention (in fact, it is an international justice), and according to Article 47 of the Convention "may give advisory opinions on legal questions concerning the interpretation of the Convention and its Protocols"<sup>5</sup> [5].

*Secondly*, international cooperation in fight against crime (it is formed corresponding branch of the international law at the present<sup>6</sup> [6]). In the scientific literature it is also highlighted the international police cooperation and international cooperation in the criminal justice<sup>7</sup> [7]. We believe that international cooperation in the fight against crime is a broader concept. This trend can be divided into more specific areas such as the provision of legal assistance in criminal matters; extradition; collection, processing (analysis) and the exchange of information on transnational crimes and persons who committed them, etc.

Having defined the concept of "international law enforcement," can be a definition of "international law enforcement organization."

Under *international law enforcement organizations* it is necessary to understand the constant association with the intergovernmental nature, created on the international agreement basis (charter, statute or any other founding document) for the implementation of international law enforcement.

*The aim of study* is to obtain a clear idea of how to build and which function is

<sup>2</sup> Данное определение было получено в результате обобщения наиболее существенных признаков понятий "международная деятельность" и "правоохранительная деятельность"

<sup>3</sup> Международное право: Учебник / Под ред. Г.В. Игнатенко и О.И. Тиунова. М., 2000. С. 202

<sup>4</sup> Гуценко К.Ф., Ковалев М.А. Указ. соч. С. 63

<sup>5</sup> Собрание законодательства РФ. 2001. № 2. Ст. 163

<sup>6</sup> См.: Бирюков П.Н. Нормы международного уголовно-процессуального права в правовой системе Российской Федерации. С. 10 - 11

<sup>7</sup> См.: Губанов А.В. Полиция зарубежных стран. Организационно – правовые основы, стратегия и тактика деятельности. М., 1999. С.187 – 210

implemented by the international law enforcement organizations; how they interact each with other and with relevant law enforcement agencies, what is their social mission. In other words, it is a study of the following issues:

- place of the international law enforcement organization in the system of international organizations and its significance for Mongolia as a subject of international relations;
- History of formation and development of the studied international law enforcement organizations;
- System, structure and composition of the international law enforcement organizations;
- Competence: what issues are addressed, who may apply to this international law enforcement organizations, to whom applies its solution;

It is obvious that today it is difficult to overestimate both the practical and the theoretical point of view, the importance of studying questions relating to the organization and activities of international law enforcement organizations such as the International Court of Justice, the European Court of Human Rights, the International Criminal Police Organization - Interpol, the International Criminal Court. Indeed, in Mongolia to construct the democratic state the law enforcement activities of international organizations has a direct impact on the law in Mongolia, on process of further development and improvement of national legislation and practice in various fields<sup>8</sup> [8].

In research work can be defined two parts: general and specific.

*General part* includes review and study of the following issues: definition and signs of the concept of "international law enforcement"; the main directions of the IHRM (International Human Rights Movement); definition and features the concept of "international law enforcement organizations"; legal status, classification system and the IHRM; the object and system of the "International law enforcement organizations"; concept of the "International law enforcement organizations"; principles of international cooperation especially; acts of international law enforcement organizations and the internal law of states.

*Specific part* includes study of questions about organization and activities of concrete international law enforcement organizations. There is a consistency and approach in its study of the ILEO (International law enforcement organization). Place of international law enforcement organizations is determined by importance of learning solved its problems and in livelihoods of the international community in the field of judicial cooperation.

Actual problems of cooperation of the international criminal justice and the International Criminal Police Organization (Interpol)

The obligation of States to cooperate each with other in accordance with Charter of the United Nations in 1945 is a mandatory rule for many decades. Fixation of the provision in Article 1 of Charter of the United Nations, its confirmation and expansion in a meaningful aspect in subsequent legal acts gave rise to the progressive development of bilateral relations in many fields: economic, humanitarian, social, cultural,

<sup>8</sup> См. подробнее: Даниленко Г.М. Международная защита прав человека. Вводный курс: Учеб. пособие. М., 2000. С. 121 – 125; Фриберг Э. Европейский Суд по правам человека: сегодняшние заботы и завтрашние реформы // Российская юстиция. 2002. № 12. С. 2 – 11; Туманов В.А. Европейский Суд по правам человека. Очерк организации и деятельности. М., 2001. С. III – VIII, 1 - 16; Овчинский О.В. Интерпол (в вопросах и ответах). М., 2001. С. 11 – 141; Костенко Н.И. Международный уголовный суд. М., 2002. С. 5 – 16

technical, trade, and others. It was no exception such actual field as counteraction to crime.

Currently, the undisputed leader, who is responsible for interaction of law enforcement bodies of the various states in prevention, suppression, disclosure and investigation of crimes, is the International Criminal Police Organization - Interpol. The legal basis of Interpol constitutes the Charter and Rules of Procedure adopted in 1956. Today, 190 states are member of the Interpol, including the Russian Federation as the successor of the USSR, which joined to this organization in 1990, Interpol Headquarters located in Lyon, France.

According to Charter of the Interpol, this international organization was established in order to ensure broad cooperation between all bodies (institutions) of the criminal police in framework of the existing legislation of countries and in spirit of the Universal Declaration of Human Rights, as well as the creation and development of institutions that can successfully contribute to prevention and fight against crime<sup>9</sup> [9]. At the same time the organization is strictly forbidden to carry out any intervention or activities of a political, military, religious or racial characters.

The main functions of the Interpol are:

- Providing information and access to the police authorities databases;
- provision of a secure communication channel for exchange of police information by Member States and the General Secretariat of Interpol;
- operational support for police departments;
- training and improvement of qualification for officers of the law enforcement authorities of Member States, including through specialized training seminars<sup>10</sup> [10]

In order to effectively fight with the transnational organized crime today the Interpol works closely with various international organizations and private sector entities. Currently, Interpol has signed 60 such agreements. The largest partners of Interpol in the fight against crime are: The Council of Europe (agreement on cooperation with the Council of Europe, 1960), The United Nations (agreement on cooperation with the United Nations, 1997), the Organization of American States (agreement on cooperation with the Organization of American States, 2000), EUROPOL (agreement on cooperation with Europol 2001), United Nations Office on Drugs and Crime (agreement on cooperation with the UN Office on Drugs and Crime, 2008), World Anti-Doping Agency (agreement on cooperation with the World Anti-Doping Agency in 2009) and other international organizations<sup>11</sup> [11].

Interpol has a special relationship with the organs of the International Criminal Justice. Currently in the scientific literature there are different approaches to the concept and to the classification of international criminal justice. For example, Professor A.G. Volevodz refers to these bodies as "organs of international criminal justice" and highlights them as follows:

1. international criminal tribunals ad hoc, created by the UN Security Council as subsidiary bodies: the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the

<sup>9</sup> Устав международной организации уголовной полиции 1986 г./Правовая система «Консультант Плюс». Электронная версия.URL:http://www.base.consultant.ru/cons/cgi/online.

<sup>10</sup> Родионов К.С. Интерпол: вчера, сегодня, завтра.-М.:Международные отношения, 1990. С.2-30.

<sup>11</sup> Cooperation agreements // INTERPOL. URL: http://<http://www.interpol.int/About-INTERPOL/Legal-materials/Cooperation-agreements>

Territory of the Former Yugoslavia since 1991; The International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighboring States, in the period from January 1, 1994 December 31, 1994;

2. mixed (hybrid) criminal courts (tribunals) of two kinds: (1) produced by or on the basis of agreements with the United States (such as the Special Court for Sierra Leone, the Special Tribunal for Lebanon); and (2) formed by the UN Interim Administration on the territories of countries, where peacekeeping operations are carried out (for example, the College with exclusive jurisdiction over serious crimes in East Timor);

3. The national courts, in which are reviewed cases of international crimes involving international judges and other participants in criminal proceedings (Department for War Crimes of the Court of Bosnia and Herzegovina, the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, etc.);

4. The International Criminal Court as a permanent body of international criminal justice <sup>12</sup>[12].

According to opinion of A.I. Rabtsevich an international criminal jurisdiction should be understood as a system of activities aimed to implement the international criminal justice<sup>13</sup> [13], as to the types of bodies specified by the author considers as follows:

- international criminal jurisdictions, which are divided into international bodies directly involved in the prosecution (bodies carrying out the investigation, and international criminal justice institutions, etc.), and the authorities that promoting its implementation (universal and regional international organizations: the United Nations, the OAS, CIS, Arab League, EU, SCO and others);

- internationalized courts (military tribunals occupation authorities in post-war Germany, a special judicial structures of the District Court of Dili in East Timor, The Extraordinary Chambers in the court of Cambodia, SCSL, the courts in Kosovo War Crimes Chamber in Bosnia and Herzegovina and STL);

- State bodies (national courts and other law enforcement authorities<sup>14</sup> [14].

It seems such bodies can be classified into the following groups:

- Temporary: the International Criminal Tribunals ad hoc that means for or concerned with one specific purpose (Nuremberg Military Tribunal in 1945, the Tokyo Military Tribunal in 1946, the International Tribunal for the Former Republic of Yugoslavia in 1993, the International Tribunal for Rwanda, 1994);

- Mixed (hybrid): courts and tribunals (the Special Court for Sierra Leone in 2002, the Special Tribunal for Lebanon, 2007);

- Permanent: bodies established for the long term such as the International Criminal Court (ICC), established in 1998.

It is worth noting that such joint actions designed to promote not only the effectiveness of cooperation in fight against crime of various nature and scale, but also development of the ideas and aspirations of centuries in international joint judicial

<sup>12</sup> Волеводз А.Г. Современная система международной уголовной юстиции: понятие, правовые основы, структура и признаки // Международное уголовное правосудие: Современные проблемы / Под ред. Г.И. Богуша, Е.Н. Трикоз. - М.: Институт права и публичной политики, 2009. - С.303-323

<sup>13</sup> Рабцевич О.И. Международная уголовная юстиция: понятие и структура // Международное уголовное право и международная юстиция. - М.: Юрист, 2009. № 3. С. 3-7

<sup>14</sup> Рабцевич О.И. Указ. Соч. С.2

investigation and punishment of the perpetrators of the most serious offenses, encroaching to international peace and security.

### Conclusion

Summarizing this article, it should be noted that the International Criminal Police Organization cooperates by line of the fight against crime with various universal and regional international organizations. The Interpol provides priceless assistance and support to the various organs of the international criminal justice system in the investigation, extradition and further punishment of perpetrators of international crimes. In recent years, the intensity of such cooperation is increasing, indicating that the mutual interest of the parties and the future prospects of expanding joint cooperation.

### Proposal

On this direction in my opinion it is necessary to provide comparative study of the key concepts as *International law enforcement agencies, International law enforcement activities, its direction, cooperation* where will be involved the professors' team with participation of the Law Enforcement University, court of justice, External Relations and Cooperation Division, Ministry of Internal Affairs, state institutions for a fair society and government.

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