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#### ORGANIZATIONAL AND LEGAL ASPECTS OF THE IMPLEMENTATION OF **LEGISLATION** INTERNATIONAL LAW **NORMS** INTO NATIONAL REGULATING THE ACTIVITIES OF JOINT INVESTIGATION TEAMS

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#### **ABSTRACT**

In the world, the introduction of international legal standards into national legislation creates the nessesity to take a fresh look at the issues of bringing laws into line with them. Bringing national legislation and relevant regulations into line with international standards, in turn, requires improving legislation related to ensuring the activities of law enforcement agencies, especially the rights and interests of persons who have committed crime. The Republic of Uzbekistan, as a sovereign state, as a full member of the international community, fulfills the obligations provided for by international law, in particular, we can achieve the preservation of international peace and security, respect for human rights, etc. In this article, the author scientifically substantiated the organizational and legal aspects of the implementation in the Republic of Uzbekistan of international acts regulating the activities of joint investigative groups. Some thoughts and opinions have been put forward on the further development of this activity.

#### **KEYWORDS**

International, law, implementation, contract, bill, investigation, joint investigation, group, governmental body.

#### **INTRODUCTION**

These days, the provision of legal assistance in criminal cases between countries is of great importance in the fight against crime, prevention of crimes and the imposition of a fair punishment for criminals within the framework of international cooperation. Defenitely, the cooperation in criminal cases is carried out directly through contracts. According I.I.Lukashuk, to

contracts and agreements have already formed as a necessary institution for human communication. With their help, joint actions are coordinated and various conflicts are resolved [1].

In addition, contracts regulate relations between states. The more important issues are resolved in contracts concluded between states, the

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important it is. In accordance with Article 26 of the Vienna Convention on the Law of Treaties [2] adopted in 1969, it is no exaggeration to say that the fact that every valid contract is binding on its participants and must be performed by them in good faith reveals the importance of contracts.

As a sovereign state, the Republic of Uzbekistan is a full member of the international community. As a member of the United Nations, the Republic of Uzbekistan fulfills the obligations stipulated in the UN Charter, in particular, maintaining international peace and security, respecting human rights, etc. Besides that, our country as a participant of international organizations in various fields joins international conventions, contracts and acts and fulfills the obligations arising from them. In addition, the supremacy of international legal rules was established in the national Constitution and laws. In particular, according to Article 15 of the Constitution of the Republic of Uzbekistan, it was established that "international treaties of the Republic of Uzbekistan, along with the generally recognized principles and norms of international law, are a component of the legal system of the Republic of Uzbekistan''[3]. We can see a strictly defined rule in Article 3 of the Law "On International Treaties of the Republic of Uzbekistan" [4] adopted on February 6, 2019, "international treaties of the Republic of Uzbekistan along with generally recognized principles and norms of international law are an integral part of the legal system of the Republic of Uzbekistan". These days, the Republic of Uzbekistan, in addition to conscientiously fulfilling its international obligations, maintains friendly relations between states and governments in various fields. At the same time, it is a member of multilateral and bilateral treaties regulating legal assistance in criminal cases by the UN and regional organizations regarding the fight against crime, their prevention and the imposition of a fair punishment on

perpetrators. In addition, our country does not limit itself to membership of international agreements, but implements the international standards defined in them directly into the national legislation.

In particular, in the implementation of international cooperation in criminal cases, we can witness that the acts of international organizations, the model, recommendatory acts developed by them show their positive results in the issue of improving the mechanism of international cooperation in criminal cases. The Republic of Uzbekistan ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1995 and is a member of the Convention. After ratifying this convention, the Republic of Uzbekistan implemented its provisions into the national legislation.

Chapter 19 of the Criminal Code of the Republic of Uzbekistan is entitled "Crimes consisting of illegal handling of narcotic drugs and psychotropic substances". It includes cultivation of prohibited crops (Article 270 of the Criminal Code); illegal possession of narcotic drugs or psychotropic substances (Article 271 of the Criminal Code); illegal preparation, acquisition, storage, as well as illegal transfer of narcotic drugs or psychotropic substances for the purpose of transfer (Article 273 of the Criminal Code); attraction to consumption of narcotic drugs or psychotropic substances (Article 274 of the Criminal Code); violation of the rules of production or use of narcotic drugs or psychotropic substances (Article 275 of the Criminal Code); criminal liability is established for illegal preparation, possession, storage and other actions without the purpose of transferring narcotic drugs or psychotropic substances (Article 276 of the Criminal Code). In addition, the adoption of the Law of the Republic of Uzbekistan "On Narcotic Drugs and Psychotropic Substances" [5] adopted on August 19, 1999, indicates the implementation of the provisions of

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United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances into national legislation.

According to Article 2 of the Law "On Narcotic Drugs and Psychotropic Substances": "If the international treaties of the Republic of Uzbekistan stipulates different rules than those stipulated in the legislation of the Republic of Uzbekistan on narcotic drugs, psychotropic substances and precursors, the rules of the international treaties shall be applied".

In addition, the issue related to the application of the provisions of the international treaties related to narcotic drugs and psychotropic substances was observed in Decision No. 12, on April 28, 2017, adopted by the Plenum of the Supreme Court of the Republic of Uzbekistan, , "On judicial practice in criminal cases related to illegal dealing with narcotic drugs, their and psychotropic substances". accordance with to part 2 [6] of the Decision, "... it is necessary to observe UN Convention on the Suppression of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (December 20, 1988, Vienna), the international treaties of the Republic in this sphere", this context indicates that the convention has been implemented into the national legal system.

Article 42 of the Law "On Narcotic Drugs and Psychotropic Substances" has established a number of powers for investigative bodies, in particular for officials of the prosecutor's office, internal affairs, State Security Service and customs authorities. According to part 2 of the Article, "Prior to the investigation, officials of the investigation, interrogation or prosecution bodies may enter and inspect any place where activities related to the circulation of narcotic drugs, psychotropic substances and precursors are carried out". This, in turn, the authority is based on the activity of law enforcement agencies in the fight against crime. It is precisely in the fight against drug addiction that the mechanism of implementation of international cooperation is not determined by law. This indicates that international cooperation in the fight against crime is conducted directly on the basis of criminal procedural rules.

In addition, the UN Convention "Against Transnational Organized Crime" was ratified in the Republic of Uzbekistan by Resolution No. 536-II of the Oliy Majlis, adopted August 30, 2003, and entered into force on January 8, 2004 [7]. The Convention raised the international legal regulation of the Joint Investigation Institute to a higher level. "Joint investigation" was clearly defined for the first time as an independent separate article at the level of universal international treaty. These days, 17 types of transnational crimes are directly listed by the UN. They include crimes such as terrorism; theft of cultural monuments and works of art; theft of intellectual property rights; illegal trade firearms; hijacking aircraft; sea piracy; seizure of surface vehicles; insured fraud; computer crime; crimes in the field of ecology; human trafficking; illegal sale of human body parts; illegal trade in narcotics and psychotropic substances; fake bankruptcy; illegal invasion of commerce; corruption, bribery of political party representatives and officials: "money laundering" obtained through criminal means [8].

The Republic of Uzbekistan having ratified the UN Convention against Transnational Organized Crime, the provisions of the convention were implemented into the national legislation. In particular, Article 155 of the Criminal Code of the Republic of Uzbekistan, the Law of the Republic of Uzbekistan "On Combating Terrorism", December 15, 2000, the Law "On the Fight against the Legalization of the Profits of Criminal Activities, the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction", August 26, 2004, the Law "On Amendments and

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Additions to Legislative Acts of the Republic of Uzbekistan in Connection with the Improvement of Legislative Acts Fighting Against the Legalization of the Profits of Criminal Activities, the Financing of Terrorism", September 22, 2009, and other legal acts of are the legal basis for regulating this type of relations.

In accordance with Article 8 of the Law "On Combating Terrorism", authorized state bodies for combating terrorism were listed. Article 9 of this Law specifies the powers of the State Security Service in the field of combating terrorism. According to it, we can see that this state body has the authority to cooperate with relevant bodies of foreign countries and international organizations in the field of combating international terrorism.

According to Article 9 of the Law "On the Fight Against the Legalization of the Profits of Criminal Activities, the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction" (the title of the law was amended in 2019), the powers of the special body were enumerated. Among these powers, the special authorized body shall cooperate with the competent authorities of foreign countries, international specialized organizations and other organizations in the field of combating the legalization of profits from criminal activities, the financing of terrorism, and the financing of the distribution of weapons of mass destruction, with international and regional organizations, with the relevant competent authorities of foreign countries. The special authorized body shall conclude agreements and cooperate according to the international agreements of the Republic of Uzbekistan or with the competent authorities of foreign countries and international organizations on the basis of the principle of reciprocity. In addition, we can see that powers are defined, such as the implementation of information

sharing. In a general sense, the powers specified in these laws show that it is possible to implement legal assistance in the fight against terrorism in state bodies, which indicates the implementation of international documents in the fight against crime.

In addition, human trafficking is sanctioned in Article 135 of the Criminal Code of the Republic of Uzbekistan, the Law of the Republic of Uzbekistan "On Combating Human Trafficking" adopted in a new version on August 17, 2020 [9], in addition the National Plan for 2008-2010 was developed with the Resolution of the President of the Republic of Uzbekistan, on July 8, 2008, titled "On measures to increase the effectiveness of the fight against human trafficking". With this law, the system of combating human trafficking in our republic, the competent state bodies and their tasks, as well as the legal basis for social, medical and psychological rehabilitation of victims of human trafficking have been strengthened. Crimes related to banking and financial crimes have also been strengthened in several articles of the Criminal Code of the Republic of Uzbekistan.

Human trafficking is a highly sophisticated and evolving crime today. Defenitely, in the fight against this crime, countries have been implementing international cooperation with international organizations or through the authorized bodies of the countries. The Law "On Combating Human Trafficking" also provides a number of powers to cooperate with state bodies in combating this crime. In contrast to the above-mentioned laws, in this law we can also see the powers of state bodies to implement international cooperation. In particular, Article 11 of the Law lists the powers of the Ministry of Internal Affairs of the Republic of Uzbekistan to combat human trafficking, according to which the Ministry "cooperates with international organizations and law enforcement bodies of other countries in order to put an end to the

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activities of organized groups or persons engaged in human trafficking. According to Article 12 of the law, the powers of the General Prosecutor's Office of the Republic of Uzbekistan "coordinates the activities of bodies that carry out investigations, prosecution and preliminary investigations in the field of combating human trafficking". In addition, Article 13 states the powers of the State Security Service of the Republic of Uzbekistan, to "State Security Service conducts preinvestigation and preliminary investigation of criminal cases related to human trafficking committed by international terrorist organizations and organized criminal groups".

In addition to the UN Convention against Transnational Organized Crime, another universal international legal source for the establishment of joint investigative groups as international legal assistance in criminal cases is the UN Convention against Corruption. This convention was adopted on October 31, 2003, by UN General Assembly Resolution No. 58/4. The Republic of Uzbekistan ratified the UN Convention against Corruption on August 28, 2008 [10]. The ratification of the UN Convention against Corruption is directly related to the crimes of corruption that exist in the criminal law (such as Criminal Code of the Republic of Uzbekistan, Article 210 – taking a bribe, Article 211 – giving a bribe, Article 212 - IIntermediary in accepting and giving a bribe, Article 213 – extorting an employee of a state body, an organization with state participation, or a citizen self-government body for a bribe, Article 214 – on the fight against and prevention of illegal acquisition of material values or property interest by an employee of a state body, an organization with state participation, or a citizen selfgovernment body), it can be said that it caused further development of measures.

In addition, the Law of the Republic of Uzbekistan "On Combating Corruption", adopted on January 3, 2017,

which lays the foundation for the effective implementation of reforms in the Republic of Uzbekistan and reflects the mechanisms of combating corruption. The law consists of 34 articles and regulates relations in the sphere of combating corruption. The law includes the concepts of "corruption", "corruption-related offense" "conflict of interest", which are new to our national legislation. According to it, corruption is the unlawful use of one's position or official position for personal interests or the interests of other persons for the purpose of obtaining material or immaterial benefits, as well as unlawful presentation of such a position. As the main directions of the state policy in the field of combating corruption are as follows: raising the legal consciousness and legal culture of the population, forming an intolerant attitude towards corruption in the society, implementing measures to prevent corruption in all spheres of state and public life, identifying corruption-related offenses in a timely manner, and putting an end to the issues, eliminating their consequences, the causes and conditions, ensuring the principle of inevitability of responsibility for committing corruption offenses.

According to Article 7 of the Law "On Combating Corruption", governmental bodies carrying out activities on combating corruption have been determined. The identification of investigative bodies among these bodies is of great importance in the fight against the crime. Articles 9-11 and 13 of the Law establish the authority of the General Prosecutor's Office of the Republic of Uzbekistan, the State Security Service, the Ministry of Internal Affairs, and the Department of Combating Economic Crimes under the General Prosecutor's Office to implement international cooperation in the field of combating corruption.

In the Oliy Majlis of the Republic of Uzbekistan on January 24, 2020, the President of the Republic of

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Uzbekistan Sh.M. Mirziyoyev noted "the evil of corruption in our society is hindering our development in its various forms. If we do not prevent this evil scourge, it will not be possible to create a real business and investment environment, and in general, not a single branch of society will develop" [11]. Based on the Decree No. PF-6013 of the President of the Republic of Uzbekistan, adopted on June 29, 2020, "On additional measures to improve the system of combating corruption in the Republic of Uzbekistan" [12] the Anti-Corruption Agency was established in order to formulate and implement the state policy in the field of combating corruption, as well as to eliminate the systemic causes and conditions of corruption-related offenses and to increase the effectiveness of anticorruption measures.

The Agency was assigned with the following tasks: ensuring the implementation of works and developing recommendations of the Istanbul action program of the Eastern European and Central Asian countries of the Organization for Economic Cooperation and Development to fight against corruption, taking measures related to the implementation of the provisions of the UN Convention against Corruption and other international treaties of the Republic of Uzbekistan in the field of fighting corruption, fulfilling the tasks and powers of the national coordinator of the Republic of Uzbekistan on the implementation of activities and coordination of activities in this direction, as well as organizing the creation of a national index assessing the level of corruption in regions, economic sectors and other sectors together with civil society institutions.

We considered that the criminal acts prohibited by the universal conventions analyzed above are also reflected in the national legislation of the Republic of Uzbekistan. We have seen that, in addition to the criminal actions specified in the conventions, the

conventions also set out rules related to conducting joint investigations as a type of legal assistance in criminal cases. The Republic of Uzbekistan has ratified international conventions on combating transnational crimes and implemented them into national legislation, adopted laws on combating transnational crimes. In the adopted laws, the competent governmental bodies that directly fight against crime have been determined in a general manner to implement international cooperation. However, the mechanism of international cooperation was not disclosed in detail. We can see that no authority has been given the authority to carry out the investigation, which is specified in the conventions in the fight against this type of crime. Laws adopted in a general sense indicate that cooperation between states in the fight against transnational crime can be based on the principle of reciprocity. However, the reflection of cooperation related to the creation of joint investigation groups in legal assistance in the national legislation will significantly expand the boundaries of cooperation of these countries in the fight against crime, and will also make this process much easier.

According to the laws analyzed above, international cooperation is not provided directly to all law enforcement agencies. For instance, the law "On Narcotic Drugs and Psychotropic Substances" empowers law enforcement agencies to conduct investigations at the national level. International cooperation in the fight against terrorism is a mandate given to the State Security Service by the Law "On Combating Terrorism". According to the law "On the Fight against the Legalization of the Profits of Criminal Activities, the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction", the authority to combat this crime is assigned to a special authorized body. The Ministry of Internal Affairs of the Republic of Uzbekistan is entrusted with the implementation of international cooperation

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according to the Law "On Combating Human Trafficking". According to the Law "On Combating Corruption", international cooperation in combating this crime is a mandate assigned to all law enforcement agencies. Based on this, we should note that international cooperation in the fight against every crime is not presented equally to all law enforcement agencies. In modern world, in the era of digital transformation, the digitization of all spheres of society and human activity, especially during the pandemic, the acceleration of this process and the fact that information technologies have become a "driver" of economic growth, has not bypassed the international cooperation system in the criminal justice system. The crisis caused by the COVID-19 pandemic required the more active development of industries based on digital technologies and innovative solutions and the adoption of national and international regulations on their use. During this period, terms such as "e-justice", "cyber-justice", "distance justice", "digital justice", "video conferencing", "interviewing witnesses and suspects online" began to appear in the international arena.

Therefore, today in the Republic of Uzbekistan, the General Prosecutor's Office, the Ministry of Internal Affairs and the bodies of the State Security Service have created a unified information exchange platform for the purpose of integration of international cooperation in the implementation of legal assistance in criminal cases. We believe that it serves to prevent time-related shortcomings in the implementation of international cooperation, attempts to information related to the situation secret in state bodies, problems related to the execution of tasks received under cooperation, problems related to the formation of joint investigative groups.

By offering a new method of international cooperation in the implementation of legal assistance in criminal

cases through the creation of the above-mentioned single information exchange platform, it is possible to create a new practice. In addition, the electronicization of the procedures enables the creation of an intellectual system through analysis leading to the implementation of international cooperation, carrying out legal research in the field, eliminating existing shortcomings in practice. This, in turn, will create a single information base for law enforcement bodies through digitalization, put an end to censorship in the implementation of interactive services in the activities of state bodies in the implementation of mutual cooperation, and also show its favorable and positive aspects in the conscientious fulfillment of the duties established in cooperation.

The types of legal assistance in criminal cases and the procedure for their implementation are directly developed in UN conventions as a sub-rule or in the form of a model contract. This, in turn, indicates that a set of administrative rules for the implementation of legal assistance has not been developed. There is no practical acts developed by the UN regarding the issue of the joint investigation specified in the abovementioned conventions, for this purpose it is considered appropriate to develop a concrete example agreements between the states on the establishment of joint investigation groups. It serves as a comprehensive program in the process of concluding mutual agreement between countries that implement legal assistance through an investigative group through a model agreement.

This type of legal assistance in criminal cases is also regulated by universal agreements in regional organizations. But within the framework of the CIS, on October 16, 2015, the agreement "On the Establishment of Joint Operational and Investigative Groups in the Territories of the CIS and the Procedure for their Operation" was developed, which may be the

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answer to any questions that may arise regarding the implementation of this type of legal assistance in the CIS countries. Currently, the CIS member states of the Russian Federation, the Republic of Tajikistan, the Republic of Kazakhstan, the Republic of Kyrgyzstan and the Republic of Armenia have signed this agreement and are full participants of the agreement. The Republic of Uzbekistan is not considered a member of this agreement, and we believe that by ratifying this agreement, our country, in its turn, will give good results in the implementation of legal assistance related to joint investigation and emergency groups. However, we can find it in some bilateral agreements of the Republic of Uzbekistan on the establishment of joint investigation and emergency groups. For instance, the agreement "On Legal Assistance and Cooperation" signed between the General Prosecutor's Office of the Republic of Uzbekistan and the General Prosecutor's Office of the Kyrgyz Republic in 2006 [13]. According to section 1 of Article 9, "The question of the investigation of crimes committed on the territory of several countries, as well as the control over the investigation of these cases, shall be resolved by agreement of the heads of the Parties". We can also witness that according to part 2 of this article, it is emphasized that it is possible to create joint investigative groups directly between countries. In our opinion, the existence of this bilateral agreement shows that the implementation of international legal acts ratified by the Republic of Uzbekistan [14].

On October 16, 2015, the ratification by the Republic of Uzbekistan of the agreement "On the Establishment of Joint Investigative Groups in the Territories of the CIS and the Procedure For their Operation" serves to form a unanimous opinion on joint investigative groups among law enforcement bodies.

In addition, the ratification of the above agreement by the Republic of Uzbekistan will help to effectively develop cooperation in the field of establishing and operating joint investigative groups with the CIS member states, as well as in the implementation of this legal assistance between the CIS countries on the basis of mutual agreements, in the search for persons who have committed a crime, and the reliability of evidence. In addition, it helps in the implementation of procedural actions such as the formation of investigative groups and the use communication.

Since the activity of the joint investigation and operative groups defined in Article 63 of the Chisinau Convention, adopted in 2002, is very narrow and short, and it is considered to be a summary of the general rules for this type of legal assistance. However, the most important issues, such as how to implement this legal assistance, the concept of joint investigation groups, their activities, operative procedure, the procedure for concluding bilateral and multilateral agreements on the implementation of this legal assistance, are defined directly in the agreement adopted in 2015. Therefore, the ratification of this agreement, firstly, implies the full implementation of the legal relations defined in the Chisinau Convention, and secondly, it facilitates its implementation into national legislation through a full study of the issues that have arisen in the implementation of this legal assistance.

In addition, through the ratification of the agreement, it will be possible to find a solution to a number of problems, this will impulse to improve the mechanism of international cooperation in criminal cases (the mechanism of creating joint investigative groups) and mutual coordination of national and international legal rules, and the Republic of Uzbekistan will have the

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opportunity to properly fulfill its international obligations in this sphere.

In conclusion, we should note that the implementation of the provisions stipulated in the universal agreements by the states into their national legislation and the observance of these provisions directly achieve good results in the fight against crime and its prevention. Defenitly, it is noteworthy that these universal international acts set rules that can be fulfilled and are appropriate for all countries in a general sense. In addition, it is worth noting that the implementation of the provisions stipulated in the conventions and agreements directly results from the international legal obligation of the states.

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