

# INTERNATIONAL LEGAL CO-OPERATION IN COMBATING ECONOMIC CRIME

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**Abstract.** The *subject* of the present study is the conceptual, theoretical and methodological research of international legal co-operation in combatting economic crimes on the international, European and state level. *Methodology.* The research employs a range of general scientific methods, with hermeneutic methods being utilised for the development of the research's conceptual construct and the establishment of the meaning of the terms employed. The analysis and synthesis methods were employed to establish the qualitative parameters of international police co-operation in the prevention and combatting of economic crimes, as well as to determine the methodological principles on which such co-operation is based. The comparative method was used to establish the similarities and differences between legal acts on international, regional and domestic levels. The *objective of the present article* is twofold: firstly, to provide a comprehensive overview of the various approaches employed in the analysis of international co-operation in the prevention and combatting of economic crime; and secondly, to establish a contemporary theoretical basis for research into the modalities of international co-operation in the aforementioned field. The *findings* of the study have demonstrated that effective international co-operation of States and their law enforcement authorities in combatting and preventing economic crimes is only possible upon condition of the development of the corresponding legal and institutional framework. Such a framework is to be developed at the international, regional and global levels, which are to be harmonised to achieve a common goal of preventing economic crimes. *Conclusion.* It has been determined that the establishment of an effective international co-operation mechanism to prevent and combat economic crime is contingent upon the presence of a suitable legal and institutional framework. This framework must be developed through systematic efforts at both domestic and international levels. It is noteworthy that a significant number of international agreements aimed at preventing and combatting various forms of crime, including economic crime, have been concluded during the late XX and early XXI centuries. In a similar vein, the European Union has developed a considerable body of legislation and practice on the matter, with relevant activities being institutionalised by the creation and empowerment of international bodies such as Interpol and Europol. In addition, States have prioritised international efforts in combatting economic crime, as evidenced by the establishment of systems of laws and bylaws directed at the elimination of international economic criminal activities, a notable example of which is Ukraine. It is anticipated that this issue will receive greater attention in the future, including through the promotion of relevant international agreements from the interdepartmental to the interstate level.

**Keywords:** international co-operation, combatting crime, Interpol, Europol, National Police, economic crime, crime prevention.

**JEL Classification:** K14, K33, K42

## 1. Introduction

International relations in the present period are characterised by the activation of integration processes. The first decades of the XXI century have

witnessed the growing influence of globalisation and integration processes, as well as the increase in the number of international institutions that influence the development of global economic relations. This

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encourages new technologies in criminal activities. The existing problems of preventing and combating crime are reaching a new level, unimaginable in the past. These criminal activities disrupt the functioning of global markets and directly threaten the national security of States. Ensuring criminal security in the economic sphere is a priority for law enforcement and for creating the conditions for further economic integration. Therefore, it is essential to establish the legal basis and procedures for international co-operation of States and their law enforcement agencies in preventing and combating economic crime. Therefore, research into the international legal regulation of the prevention and suppression of economic crime is highly topical for States and for the international legal order in general.

As rightly pointed out by Zozulia (2022), the fight against economic crime requires joint efforts of law enforcement bodies of all States. Such co-operation requires a scientific basis in the form of research of the content, specifics and directions of determining the effective forms of international co-operation of law enforcement bodies in combating crime. With this in mind, Hrytsyshen (2020) points out that the current problems of combating economic crime cannot be solved by one State alone, as the transparency of borders encourages transnational economic crime. There is global competition not only between States, but also between transnational systems, which include the creation of capital, the organisation of industry, banking and financial structures operating on the global market. This changes the function of States in the prevention and suppression of economic crime, as they should exercise law enforcement in relations with other States and international organisations. The high public threat of economic crime requires the development of communication at the international level and the formation of State policy on the prevention of economic crime at the international level.

Scientific attention to this problem is a logical response to the demands of the times, the needs of society and its law enforcement bodies. This problem is aggravated by the absence of a definition of transnational economic crimes and different interpretations of this phenomenon in international agreements and domestic legislation (Khoronovskyi, 2021). These considerations determine the timeliness and practicality of the chosen topic.

## **2. International Legal Framework for Preventing and Combating Economic Crime**

The legal framework for combating economic crime at the international level is multi-layered. The highest level is formed by international conventions

adopted under the auspices of the United Nations, including the 2000 United Nations Convention against Transnational Organised Crime, the 2003 United Nations Convention against Corruption, the 1988 United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, and the 1999 International Convention for the Suppression of the Financing of Terrorism. These international conventions address various aspects of preventing and combating international economic crime and provide for specific measures of international co-operation.

The legal basis provided by the international conventions is complemented by a network of international organisations dealing with organised crime. The most important of these is the UN Congress on Crime Prevention and Criminal Justice, which is the world's largest and most diverse body of representatives of governments, civil society and scientific and expert circles dealing with issues of crime prevention and criminal justice, influencing the law and practice of States and promoting international co-operation in the fight against all types of crime, including economic crime (Popko, 2019).

In addition to the Congress, there are a number of other international organisations, the most prominent of which is the Financial Action Task Force (FATF). The FATF monitors processes and studies methods of money laundering, develops countermeasures and promotes the implementation of anti-money laundering standards. Initially, the FATF's priority was to combat the laundering of the proceeds of drug trafficking. Today, the FATF's activities have three main directions: extending the scope of the recommendations it has adopted to all continents and regions of the world; reviewing how anti-money laundering measures based on the FATF's 40 Recommendations, which are a guide to action, are implemented in Member States and how they are implemented in other States; monitoring global methods and systems for laundering the proceeds of crime and developing countermeasures. The key document of the FATF is the Recommendations, which take the form of the organisation's annual reports (Honcharenko, 2020).

## **3. Legal Framework for Preventing and Combating Economic Crime in the European Union**

The normative and institutional system of international co-operation in preventing and combating economic crime is particularly well developed in the European Union. EU law consists of both international legal norms and principles in the field of co-operation between Member States and the norms and principles of Community Law (*acquis communautaire*).

The EU States pay great attention to economic security based on co-operation, seeking to ensure internal economic stability in order to achieve sustainable development and prosperity.

In line with these activities, the European States have adopted the Strasbourg Convention on Laundering, Search and Confiscation of the Proceeds of Crime of 1990, Convention on Laundering, Search and Confiscation of the Proceeds of Crime, 1990, European Convention on Mutual Assistance in Criminal Matters, European Convention on the Transfer of Proceedings in Criminal Matters and other international agreements. In addition, the Council of Europe has developed Recommendation Rec(2001)11 of the Committee of Ministers to Member States on Guiding Principles in the Fight against Organised Crime, which recommends that governments and Member States should use these principles to guide their policies, legislation and practice in responding to the contemporary problems of economic crime.

Regarding the domestic response to economic crime: Measures to combat economic crime should be taken to make the criminal justice system more capable of effectively dealing with complex business operations designed to conceal economic crime or to effectively combat economic crime itself. The range of sanctions for persons convicted of economic crime should include deprivation of the right to engage in certain economic activities for a specified period of time. Legislation should regulate the rules on the liability of legal persons for the commission of criminal offences or other acts having similar consequences.

In terms of the international response to economic crimes, it is recommended that governments improve, as far as possible, their ratification position concerning the European Conventions on Extradition and Mutual Assistance in Criminal Matters, their Additional Protocols, the Additional Protocol to the European Convention on Information on Foreign Law, as well as the Convention on the Transfer of Sentenced Persons and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. The adoption of European standards on mutual legal assistance with regard to the use of confidential data is recommended, with consideration given to existing structures for police co-operation. The development of methods to enhance the coordination of police teams working together across borders in investigating specific cases is also advised. Furthermore, international administrative assistance should be provided to national supervisory authorities with jurisdiction in areas related to economic crime. It is imperative that differences between national rules governing banking secrecy do not impede effective international co-operation in combating economic and organised crime.

In consideration of international criminological standards for ensuring economic security, the EU bodies, acknowledging the grave and continually escalating threat posed by international organised crime, chiefly economic, to the very existence of the EU, have adopted a series of legislative acts aimed at combating corruption in the private sector of the economy, money laundering, illegal insider trading and fraud, equating financial and economic crime.

It is important to note that pan-European criminal legislation serves as a fundamental basis for the harmonisation of national criminal legislation across the States of continental Europe. As asserted by Khavroniuk (2006), the harmonisation of criminal legislation among EU countries entails aligning it with European standards, as stipulated by the provisions of pan-European criminal legislation established within the Council of Europe and the EU. This harmonisation is objectively imperative to enhance the efficacy of combating international crimes, including those perpetrated in the economic sphere. The relevant European legal acts include, among others, the Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse, Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law.

Institutionally, Europol plays a central role in the fight against economic crime in Europe. In 2000, Europol established the European Financial and Economic Crime Centre (EFECC). The Centre will provide operational support to EU Member States in combating and preventing economic crime, including through financial investigations. The EFECC focuses on various aspects of fraud, corruption, money laundering and counterfeiting, as well as other types of economic crime. It serves as a centre for co-operation, bringing together public authorities, NGOs and other civil society actors, as well as other stakeholders from the private sector. In general, it should become a common platform for co-operation between different actors through the exchange of information, analytical and technical support (Europol, 2020).

#### **4. International Co-operation in Combating Economic Crime in Ukrainian Legislation and Practice**

The Constitution of Ukraine confirms the irreversibility of Ukraine's European and Euro-Atlantic course. Article 22 of the Association Agreement between Ukraine and the EU establishes the basis for

mutual co-operation in the fight against economic crime, including in the areas of taxation, corruption and fraud. Thus, the Association Agreement provides for European co-operation as the primary direction of the international co-operation activities of the law enforcement agencies of Ukraine. Undoubtedly, this does not exclude co-operation with other States, but co-operation with the European Union and its Member States has become a priority. The Ukrainian legislation on international co-operation of law enforcement agencies in combating economic crime and the relevant practice should be considered in this light.

Both in European States and in Ukraine, the system of combating economic crime consists of three main elements: police bodies, specialised law enforcement bodies, as well as tax and customs services and financial intelligence bodies (Lisova, 2018). The legal basis for international co-operation of Ukrainian law enforcement bodies in preventing and combating economic crimes can be found in the legislation regulating the activities of such bodies. Accordingly, Article 3 of the Law of Ukraine "On National Police" stipulates that the operations of the Police are subject to governance by international treaties, thereby signifying the direct applicability of such treaties in the context of police activities. In accordance with Article 4 of the aforementioned legislation, the relations of the police with the corresponding bodies of other States are founded upon international agreements and statutory documents of international organisations to which Ukraine is a member. Police officers can be appointed to international organisations and foreign States as representatives with the aim of ensuring co-operation in matters belonging to the powers of the National Police. These provisions are further enhanced by the Regulation on National Police, according to which the Police represents Ukraine in the Interpol and Europol and arranges co-operation of law enforcement and other state bodies of Ukraine with these institutions. It can thus be concluded that the National Police plays a dual role in the prevention and combatting of economic crime, not only through its own initiatives but also in its capacity to assist other state bodies in establishing co-operation in this domain. For this purpose, the National Police has been designated as a national contact point for Europol, thereby coordinating the co-operation of law enforcement bodies in Ukraine with the corresponding bodies of other European States in matters falling within the remit of Europol, including the prevention and combatting of economic crime (Galchinskyi, 2020).

Nevertheless, this does not preclude direct international co-operation by other law enforcement bodies. These bodies can be divided into two categories: general competence and specialised bodies dealing with economic crime. Among the bodies of general

competence, the Ministry of Internal Affairs occupies a leading position. In accordance with the Regulation on the Activities of the Ministry, the Ministry ensures international co-operation, participates in the development and conclusion of treaties of Ukraine within its competence and, within the limits of its competence, ensures the execution of international treaties of Ukraine. Similarly, the Law of Ukraine "On the Public Prosecutor's Office" grants the Prosecutor's Office the rights and powers of international co-operation.

International co-operation in the fight against economic crime is also carried out by a number of other Ukrainian bodies. For example, in accordance with the Regulation on the State Tax Service of Ukraine and the State Customs Service of Ukraine, the State Tax Service of Ukraine arranges and carries out the exchange of information on financial accounts with competent bodies of other jurisdictions for the purpose of verification of information on such accounts. The State Customs Service participates in international co-operation in combating smuggling and violations of customs regulations by exchanging information with the customs bodies of other States, as well as providing mutual administrative assistance in the prevention, detection and investigation of tax matters. Finally, the Regulation on the State Service of Financial Monitoring, which co-operates internationally with the corresponding bodies of other States in the exchange of experience and information on the prevention of money laundering and terrorist financing, as well as with international organisations such as the FATF.

Reviewing the collection of legislation and practice, it is possible to outline several types of international co-operation of police bodies of Ukraine in the prevention and suppression of economic crimes. Firstly, co-operation through representation, i.e., participation in joint events such as conferences, symposiums, seminars, round tables, where representatives of law enforcement agencies from different countries take part. Secondly, co-operation in the field of education, which is aimed at improving the professional level of law enforcement officers through participation in various educational programmes, both short-term (seminars, trainings) and long-term (educational courses). For instance, a number of Ukrainian policemen underwent training the European Police College (CEPOL) (Nikitenko, 2020).

In addition, joint efforts can take the form of direct co-operation in the form of joint operations to prevent economic crime. This type of co-operation is particularly important in an era of globalisation, as it brings together States and international organisations at global, regional and local levels through formal channels of co-operation and personal links between police officers. Another aspect of such



co-operation is the joint investigation of economic crimes committed on the territory of other States and international operations for the prevention of economic crimes, including through the analysis of criminal intelligence by Interpol and Europol. In order to maintain such co-operation, the law enforcement bodies of Ukraine appoint liaison officers to international bodies (Monayenko, 2023).

International co-operation in preventing and combating economic crime can be intergovernmental or interagency. The latter involves bilateral or multilateral co-operation between law enforcement agencies directly, without the involvement of senior state officials as intermediaries. This form of co-operation is particularly well developed between law enforcement agencies of neighbouring States. If such contacts are supported over a long period of time, they acquire a systematic character and also take place through international organisations (Havriliuk & Dubina, 2007).

## 5. Conclusions

The establishment and implementation of effective co-operation in preventing and combating economic crime can be effective only under the condition of the development of an appropriate legal and institutional framework. Work on the establishment of such a framework is being carried out systematically both at the national and international level, creating the basis for effective co-operation of Ukrainian law enforcement bodies with their foreign and international counterparts.

It is possible to outline a considerable number of international instruments aimed at combating crime in general and economic crime in particular. These include international conventions and European

legislation which oblige States to co-operate in this way, leaving the concrete modalities to the discretion of each State. It should be noted that the most comprehensive set of such documents has been created in the European Union, while its bodies, such as Europol, appear to work much more closely with the relevant law enforcement institutions of the States than purely international bodies such as Interpol.

Preventing and combating economic crime is one of the priorities of Ukrainian law enforcement agencies, as provided for in the EU-Ukraine Association Agreement. Between 2015 and 2019, Ukrainian legislation has created a solid basis for international co-operation in the fight against economic crime. This legislation covers the activities of both law enforcement bodies of general competence, such as the Ministry of Internal Affairs of Ukraine and the National Police of Ukraine, and specialised bodies, such as the State Financial Monitoring Service. An integral part of this reform is to ensure that Ukraine's legislation on preventing and combating economic crime is in line with the relevant standards and the *acquis* of the European Union.

In the future, special attention should be paid to the further development and amendment of legislation on the prevention and suppression of economic crime, as well as to international co-operation in this area with the law enforcement bodies of other States and international organisations on specific issues. This is due to the fact that overcoming international economic crime is possible only if the efforts of many countries and their law enforcement agencies are combined. It is necessary to gradually raise the status of relevant co-operation from the interdepartmental to the intergovernmental level. This makes further research in this direction important and topical.

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