

**CERTAIN ISSUES OF THE LEGISLATIVE REGULATION  
OF INTERNATIONAL COOPERATION IN CRIMINAL MATTERS  
IN THE REPUBLIC OF UZBEKISTAN**

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***The Republic of Uzbekistan is a full-fledged subject of international relations [1].***

International cooperation in criminal matters inevitably presupposes either occasional or systematic interaction between the law enforcement authorities of different States engaged in combating crime. The Republic of Uzbekistan conducts such cooperation with foreign States on the basis of mutual compliance with international treaty obligations. Within this framework, Uzbekistan acts as an equal,

sovereign and independent subject of international legal relations.

International cooperation is carried out on the basis of specific legal regulation operating both at the inter-State and domestic levels. Accordingly, the legal foundation governing cooperation in the provision of international legal assistance in criminal matters may be structured as follows.

*1. International level:*

- a) international inter-State treaties (bilateral and multilateral): pacts, conventions, treaties and agreements;
- b) intergovernmental agreements addressing specific aspects of cooperation in combating crime;
- c) inter-agency agreements;
- d) unwritten norms (customary rules) of international law (including international comity, reciprocity and related principles).

*2. Domestic level:*

- a) constitutional laws and statutes (regulating the activities of courts, prosecution authorities and other law enforcement and executive bodies, as well as their application of international law within criminal proceedings);
- b) decrees of the President of the Republic of Uzbekistan;
- c) resolutions of the Cabinet of Ministers (Government) of the Republic of Uzbekistan;
- d) specific regulatory legal provisions directly governing criminal procedural relations (adopted by competent authorities of the Republic of Uzbekistan and by relevant State bodies in the form of resolutions, instructions, orders, letters and directives).

It should be noted that, at the international level, the Republic of Uzbekistan has concluded and ratified treaties on mutual legal assistance with a number of States within the international community [2].

There also exist comprehensive treaties regulating the provision of legal assistance in both criminal and civil matters [3].

Comparable multilateral treaties have been concluded by the Republic of Uzbekistan with certain other States, although they have not yet been ratified.

The bilateral international treaties concluded by the Republic of Uzbekistan collectively provide for the following types (forms) of mutual legal assistance:

1. obtaining testimony and statements from individuals (including accused persons, suspects, witnesses, victims, experts and others);
2. facilitating the transfer of detained persons or other individuals for the purpose of giving evidence or assisting in investigations;
3. service of documents relating to criminal proceedings, including summonses;
4. execution of searches and seizures;
5. conduct of inspections, including judicial inspections;
6. provision of information, material evidence, originals or certified copies of relevant documents and materials, including banking, financial, legal and commercial records;
7. identification and location of persons;
8. conduct of expert examinations;
9. identification or tracing of proceeds, property, funds or other assets, their transfer for evidentiary purposes, as well as implementation of measures relating to freezing, confiscation and transfer of property obtained by criminal means, restitution and recovery of fines;
10. provision of any other assistance not inconsistent with the domestic legislation of the requested State.

However, not all of the above-mentioned types (forms) of mutual legal assistance are reflected in each of the treaties (including those not yet ratified) concluded between foreign States and the Republic of Uzbekistan [4].

The bilateral treaties concluded by the Republic of Uzbekistan do not, in all instances, permit the full receipt and provision of comprehensive mutual legal assistance in criminal matters. A substantial proportion of them does not ensure the possibility of expanding the range of forms of legal assistance depending on the specific circumstances of the case and the state of criminal procedural legislation. In particular, most of the treaties under consideration do not provide for such a form of legal assistance as the admissibility of rendering any other assistance not contrary to the legislation of the requested State. In those treaties where such a clause exists and certain other forms of assistance are not expressly specified, they may, at the request of the requesting party, be provided to the extent that this does not conflict with the domestic law of the requested State [5].

Alongside bilateral international legal regulation, the Republic of Uzbekistan actively participates in the development of a multilateral legal framework for international cooperation in the sphere of criminal procedure. Of particular significance for Uzbekistan is the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters [6], signed on 22 January 1993 with the Russian Federation, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan and Ukraine. Subsequently, Azerbaijan acceded to the Convention on 22 September 1995, and Georgia on 5 February 1996. On the basis of this Convention, Uzbekistan has concluded a number of multilateral and bilateral agreements with various States concerning international legal assistance in criminal matters.

At present, it may be asserted that the Republic of Uzbekistan has reached the level of the majority of States in the ongoing development of a legal framework governing international cooperation in the field of criminal procedural relations.

Concurrently, the domestic legal framework regulating international cooperation in criminal matters continues to evolve.

National legislation establishes the necessary procedures for implementing the provisions of international legal instruments and defines the obligations of the authorities responsible for their execution.

In the Republic of Uzbekistan, the norms of international legal instruments are implemented in two forms: through the adoption of domestic legal acts regulating the same matters as the relevant international instruments, and by their direct application. The enactment of a domestic legislative act to give effect to international norms is mandatory where such norms expressly require internal legislative implementation. Provisions of officially published international treaties of the Republic of Uzbekistan in the sphere of criminal procedure which do not require the adoption of domestic acts for their application operate directly within the legal system of the Republic of Uzbekistan.

In the context of international cooperation in criminal matters, the Constitution of the Republic of Uzbekistan constitutes the primary legal instrument. It provides that: “The Republic of Uzbekistan shall pursue a peace-loving foreign policy aimed at the comprehensive development of bilateral and multilateral relations with States and international organisations” (Article 18, Part 1).

The provisions of Article 18 of the Constitution of the Republic of Uzbekistan are directly implemented through the Law of 6 February 2019 No. ZRU-518 “On International Treaties of the Republic of Uzbekistan” [7]. This Law stipulates that, in accordance with the Constitution, international treaties, together with generally recognised principles and norms of international law, form an integral part of the legal system of the Republic of Uzbekistan (Article 3).

The constitutional provisions of the Republic of Uzbekistan are further reflected and developed in the Criminal Procedure Code of the Republic of Uzbekistan (Article 3 and Article 4, Part 2). However, notwithstanding the formal correspondence between Article 18, Part 1 of the Constitution and Articles 3 and 4(2) of the Criminal Procedure Code, the body of international legal norms falling within the scope of the constitutional provision and forming part of the national legal system is broader in extent than the norms incorporated into criminal procedural legislation.

The provisions of national criminal procedural legislation reproduce, but do not replace, the norms of international treaties. Their primary purpose is to ensure the fulfilment of international obligations arising from such treaties. This is evidenced by the current Section XIV of the Criminal Procedure Code of the Republic of Uzbekistan (“International Cooperation in Criminal Proceedings”) [8].

Cooperation in the sphere of criminal proceedings may also occur in the absence of treaty obligations between the Republic of Uzbekistan and a foreign State. In such circumstances, the basis for the provision of assistance in criminal matters is an agreement between the States concerned—an international arrangement formalised through the exchange of letters, diplomatic notes or other means, with the mediation of the Ministry of Foreign Affairs of the Republic of Uzbekistan, on the basis of reciprocity. The Criminal Procedure Code does not expressly establish, among its fundamental principles, a legislative framework governing cooperation in criminal matters in the absence of an international treaty. In this regard, the introduction of a new Article 16<sup>1</sup> into the Criminal Procedure Code of the Republic of Uzbekistan, entitled “International Cooperation in Criminal Proceedings”, would make it possible to enshrine a rule formalising the principle of reciprocity in the provision of legal

assistance in criminal matters, notwithstanding its reflection in Article 592(2) of the Code. The following wording is proposed for this provision:

**“Article 16<sup>1</sup>. International Cooperation in Criminal Proceedings.”**

Cooperation in the sphere of criminal proceedings shall be carried out on the basis of international agreements of the Republic of Uzbekistan with other States. Such cooperation may also take place, in the absence of an international treaty, on the basis of the principle of reciprocity.

Where a treaty contains such a provision and does not expressly specify certain other forms of assistance, they may, at the request of the requesting party, be provided to the extent that this does not contradict the domestic legislation of the requested State.

In such cases, the basis for the provision of assistance in criminal matters shall be an agreement (treaty obligation) between the Republic of Uzbekistan and a foreign State—an international arrangement formalised through the exchange of letters, diplomatic notes or other means, with the mediation of the Ministry of Foreign Affairs of the Republic of Uzbekistan, on the basis of reciprocity.”

The right of the law enforcement authorities of the Republic of Uzbekistan to cooperate with the corresponding authorities of foreign States is established by a number of legislative acts.

For example, Article 52 of the Law of the Republic of Uzbekistan of 29 August 2001 No. 257-II “On the Prosecutor’s Office” (as amended) [9], and Article 28<sup>1</sup> of the Law of 25 December 2012 No. ZRU-344 “On Operative-Search Activity” [10], provide for the right to maintain international contacts, although they regulate only general provisions.

The procedural framework for conducting such contacts on legal matters is not specified therein. These laws contain merely general references indicating that inter-State cooperation in criminal matters shall be carried out in accordance with the Criminal Procedure Code of the Republic of Uzbekistan and treaties on legal assistance.

However, neither the current legislation, including the Criminal Procedure Code, nor the international treaties of the Republic of Uzbekistan on legal assistance in criminal matters sufficiently define the procedural order governing interaction between the preliminary investigation authorities of the Republic of Uzbekistan and those of foreign States, nor do they contain legal norms regulating the conduct of joint operative-investigative actions.

The 1993 Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters provides for communication between the participating States in matters of legal assistance through their central, territorial and other authorities, and, in respect of requests requiring prosecutorial or judicial authorisation, in accordance with procedures determined by the Prosecutors General of those States.

The norms of the Criminal Procedure Code of the Republic of Uzbekistan designate central authorities for matters of mutual legal assistance. In this connection, direct contacts between competent authorities at the territorial level are possible, since the list of territorial and other bodies authorised to conduct direct communications in Uzbekistan has not been clearly defined. This is of particular importance for the development of cooperation between border regions. Such contacts must be conducted in accordance with generally recognised principles and norms of international cooperation. Consequently, “the development of legislative provisions and internal departmental instructions regulating direct contacts (bypassing the republican centre) between competent authorities at the local level” [11] constitutes one of the priority directions for improving legislation in the field of international cooperation in criminal matters.

**References:**

1. Part One of Article 17 of the Constitution of the Republic of Uzbekistan
2. // <https://www.lex.uz>.
3. See, for example: Collections of International Documents for 2019–2023
4. // [https://lex.uz/ru/pact\\_collection](https://lex.uz/ru/pact_collection).
5. For further detail, see: International Treaties of Uzbekistan on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters // [https://www.norma.uz/raznoe/mejdunarodnye\\_dogovory\\_uzbekistana\\_o\\_pravovoy\\_pomoshchi\\_i\\_pravovyh\\_otnosheniyah\\_po\\_grajdanskim\\_semeynym\\_i\\_ugolovnym\\_delam](https://www.norma.uz/raznoe/mejdunarodnye_dogovory_uzbekistana_o_pravovoy_pomoshchi_i_pravovyh_otnosheniyah_po_grajdanskim_semeynym_i_ugolovnym_delam).
6. These include, inter alia: the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 22 January 1993 (Minsk), which entered into force on 19 May 1994. Ratified by Resolution No. 825-XII of the Supreme Council of the Republic of Uzbekistan of 6 May 1993 (entry into force: 19 May 1994) // <https://www.parlament.gov.uz>.
7. Attention was also drawn to these circumstances by the Russian scholar A.G. Volevodz (see: Volevodz A.G. Legal Foundations of New Directions of International Cooperation in Criminal Procedure: Doctoral Dissertation in Law. – Moscow: All-Russian Research Institute of the Ministry of Internal Affairs of Russia, 2002. – pp. 120–123).
8. See: [https://nrm.uz/contentf?doc=17434\\_konvenciya\\_o\\_pravovoy\\_pomoshchi\\_i\\_pravovyh\\_otnosheniyah\\_po\\_grajdanskim\\_semeynym\\_i\\_ugolovnym\\_delam\\_\(minsk\\_22\\_01\\_1993\\_g\\_\)&products=1\\_vse\\_zakonodatelstvo\\_uzbekistana](https://nrm.uz/contentf?doc=17434_konvenciya_o_pravovoy_pomoshchi_i_pravovyh_otnosheniyah_po_grajdanskim_semeynym_i_ugolovnym_delam_(minsk_22_01_1993_g_)&products=1_vse_zakonodatelstvo_uzbekistana)
9. See: <https://www.lex.uz>.
10. See: Chapters 64 and 65 of the Criminal Procedure Code of the Republic of Uzbekistan // <https://www.lex.uz>.
11. <https://www.lex.uz>.
12. Article 281 was introduced by the Law of the Republic of Uzbekistan of 30 November 2020 No. ZRU-651 – National Database of Legislation, 1 December 2020, No. 03/20/651/1577.
13. A similar view was expressed by V.V. Milinchuk more than twenty years ago (see: Milinchuk V.V. New Trends in International Cooperation in Criminal Procedure: The Concept of Transnational Justice // State and Law. – Moscow, 2004. – No. 1. – p. 96).