

# INTERNATIONAL POLICE COOPERATION BETWEEN SERBIA AND THE COUNTRIES OF THE REGION IN COMBATING THE MOST SERIOUS EMERGING FORMS OF CRIME<sup>1\*</sup>

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**Abstract:** The paper presents the legal framework and institutional mechanisms of international police cooperation between the Republic of Serbia and the countries of our region, primarily in the suppression of the most serious emerging forms of crime. The legal framework for work and co-operation in the fight against crime consists of important international sources such as conventions, treaties and other acts adopted at the multilateral, regional and bilateral levels. The most important internal sources are the Law on Police and the regulations in the field of criminal legislation: the Law on International Legal Assistance in Criminal Matters, the CPC, the Criminal Code, the Law on Organization and Competences of State Bodies in Combating Organized Crime, Terrorism and Corruption and others. Institutional mechanisms of cooperation include forms of work, institutions, organizations and bodies established at the international level, especially at the regional level. A critical review of the legal and institutional mechanisms of cooperation is aimed at increasing the efficiency of the engaged entities in the suppression of the most serious forms of crime. In the final part, some proposals for improving the legislative framework and criminal-operational practice of the police and other law enforcement agencies are given, especially in the context of Serbia's application for the EU accession.

**Keywords:** organized crime, legislative framework, institutional mechanisms, international cooperation, Serbia and EU

1 \* The paper is the result of the research of the projects "Development of institutional capacities, standards and procedures for the suppression of organized crime and terrorism in the conditions of international integration" No. 179045 and "Innovations of forensic methods and their application" no. 34019, which are supported by the RS Ministry of Education, Science and Development.

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## INTRODUCTION

At the beginning of the third millennium, in addition to technical and technological progress and the development of human civilization, modern society is burdened by numerous challenges, risks and threats. Among them, crime and its most dangerous forms have a special place because it threatens to destroy the achievements of human society and endanger the future of the modern community. Organized crime, terrorism and other most serious forms of crime have long since acquired a transnational character and in peacetime are the greatest threat to society and the rule of law.

Particularly vulnerable are the countries in transition that have gone through a difficult path in their development, such as the countries of the former socialist bloc and the underdeveloped countries. After the collapse of communism in these countries, the process of social reforms on the political, social and economic level was initiated, which have been largely completed to this day. In an identical way, the wave of changes affected the former common state of Yugoslavia, which went through a difficult period of political and economic instability, war conflicts and finally the disintegration of the federation. The Republic of Serbia has gone through probably the most difficult period in its recent history, marked by civil unrest, a huge number of refugees from the former Yugoslavia, NATO aggression, withdrawal from the territory of Kosovo and Metohija, economic collapse and an enormous increase in crime. After the signed international agreements in Dayton-Paris (1995) and Kumanovo (1999), and the UN Security Council Resolution 1244 (1999), the war conflicts in this area were stopped, but the severe consequences and numerous problems that still burden our community have remained.

Organized crime, terrorism and other most serious forms of crime have seriously threatened to undermine the good initial results in the post-war reconstruction of the community. This was facilitated by fragile democracy, parliamentarism in the initial phase, weakened state institutions, the lack of valid mechanisms for fighting crime and other circumstances. The penetration of organized criminal groups into all pores of society was further affected by the severance of political and other relations between the former Yugoslav republics, today independent states.

The fight against organized crime, terrorism and other most serious forms of crime at the national level implies primarily a multi-agency approach, while at the international level it includes the cooperation between states and international organizations at the bilateral, regional and multilateral level (Nikač, 2015: 79-87). After social changes and return to the Interpol, our country has established criminal-law and police cooperation with numerous countries and international organizations, then the EU (Europol and other law enforcement agencies), the countries of the Balkan region and especially the former Yugoslav republics. In that sense, (Forca, Nikač, 2020: 148-183), for now in the projected indications, is a special focus of police cooperation of the Western Balkan countries within the EU Strategy for the Western Balkans (2018) and its continuation – the New EU model for the Western Balkans (2020).

## A LEGISLATIVE FRAMEWORK OF INTERNATIONAL POLICE COOPERATION

The normative-legal framework of international police cooperation consists of more significant provisions of international and domestic law.

International legal sources are primarily the norms of general international public law and specific individual sources: resolutions, declarations, conventions, memoranda, treaties and binding legal acts





such as the Statute of the International Court of Justice - Article 38 (Kreća, 2016). In the field of international criminal and police cooperation par excellence, the legal sources at the multilateral level are the UN Convention against Transnational Organized Crime, better known as the Palermo Convention (UNCATOC, UN, Treaty Series, vol. 2225) and the Additional Protocols I-III to the Convention: the Protocol for Prevention, Suppression and Punishment of Trafficking in Human Beings, Especially Women and Children, and the Protocol against Smuggling of Migrants by Land, Sea and Air (Law on Ratification of the UN Convention against Transnational Organized Crime and Additional Protocols, Official Gazette RS, 06/01), and the Protocol against Illegal Production and Trade in Firearms, Their Parts, Assemblies and Ammunition (Official Gazette SCG, International Agreement, 11/2005). Earlier a set of important international conventions for the suppression of terrorism in air traffic was adopted: Tokyo 1963 (crimes in aircraft, hostage-taking), The Hague 1970 (hijacking) and Montreal 1971 (illegal violation of civil aviation security), ratified by the former SFRY (Laws on the ratification of international conventions, OG SFRY, 03/54, 47/70, 33/72) and which were important for the development of international criminal law and police cooperation. A particularly important source at the global level is the Statute of Interpol (The Constitution) (<https://www.interpol.int/Who-we-are/Legal-framework/Legal-documents>) which is in the rank of the highest law for the constitution, organization and operation of these specialized international organizations for the fight against crime.

At the regional level, the most important international sources are the Convention on International Police Cooperation in SEE (Law on Ratification of the Convention on Police Cooperation in SEE, OG RS-IA, 70/07) and the SELEC Convention (Law on Ratification of the SELEC Convention, OG-IA, 08/11). Some regional initiatives and mechanisms such as the SEE Cooperation Average (CPSEE), the SEE Stability Pact (SPSEE) and the Regional Cooperation Council (RCC) are also significant sources (Nikač, Juras, 2015: 283-302).

At the bilateral level, the most important source of international police cooperation are numerous agreements, treaties and other international documents signed by the Republic of Serbia (Ministry of Interior of the RS) with other countries and organizations. Bilateral agreements with the neighboring countries, the countries in the Balkan region and the most important leading countries in the world, such as the United States, Russia and Israel, are especially important (Nikač, 2015: 86-87). Of particular importance are the agreements signed by Serbia with the former Yugoslav republics, because most criminals seek refuge in the area because of language, culture, mentality and other related elements.

National legal sources include the norms of domestic legislation, primarily criminal law, which regulate international criminal law and police cooperation. According to the hierarchy of norms, the most important general source is the Constitution of the RS (OG, 98/06), then the Law on Foreign Affairs (OG, 116/07, 126/07, 41/09) and others. Within the criminal legislation, the Code of Criminal Procedure (CPC, OG, 72 /11, 101/11, 121/12, 32/13, 45/13, 55/14, 35/19), the Criminal Code (CC, OG, 85/05, 88/05, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16, 35/19), Law on International Legal Assistance in Criminal Matters (OG, 20/09), Law on Organization and Competences of State Bodies in the Suppression of Organized Crime, Terrorism and Corruption (OG, 94/16, 87/18-state laws) stand out.

The Law on Police (OG, 06/16, 24/18, 87/18) is the most important internal legal source for the issues of international police cooperation, engagement and participation of the MOI forces in multinational operations abroad (Articles 19-21). The Ministry of Interior cooperates at the level of ministers and representatives of the ministry with the competent foreign bodies, international and other organizations.





## SUBJECTS, FORMS AND TYPES OF INTERNATIONAL POLICE COOPERATION

At the operational level, the police cooperate with foreign police (security) services and other law enforcement agencies on the basis of valid international agreements and special international agreements concluded on police cooperation, respecting the principle of reciprocity and on the basis of the membership in international police organizations (Law on Police).

The most important subjects of international police cooperation within the Ministry of Interior of the RS are the Minister (Cabinet of the Minister), the Sector for International Cooperation, European Affairs and Planning, the Police Directorate and within it the Directorate for International Operational Police Cooperation (Serb. UMOPS) and other lines of work within the MoI.

The Minister of the Interior and the Cabinet of Ministers are in charge of, conditionally speaking, political cooperation and relations, protocol and normative-legal affairs in the part of cooperation with other subjects of international (police) relations - foreign states (police services and agencies) and international (specialized) organizations. The position of the Minister and the Ministry of Interior derive not only from the provisions of the Law on Police, but also from the context of the Law on Ministries which specifies the Ministry of Interior and its competencies as part of the RS Government (Art.11, Law on Ministries 44/14, 14/15, 54/15, 96/15-state laws, 62/17).

The Sector for International Cooperation, European Affairs and Planning is the legal successor of the Bureau for International Cooperation and European Integration within the Cabinet of Ministers, responsible for planning and organizing the European integration process, planning and managing projects financed from the EU funds and other international sources. In this context, the Sector plans and organizes: a) bilateral and multilateral international cooperation, b) participation of MoI members in regional initiatives and peace operations of the EU, UN and other organizations, c) the development of strategies, action plans and other documents, monitoring and evaluation of their implementation, d) expert advice and coordination in the implementation of plans (strategic, medium-term and operational), e) strategic analysis within the scope of work. Organizationally, the Sector consists of several departments: for European affairs, international cooperation, strategic management and development and project management (<http://www.mup.gov.rs/> Sectors).

The Police Directorate is the most important part of the MoI of the RS, the bearer of classic police jobs and tasks in the community. The Directorate is the legal successor of the former Department of Public Security and is organized according to the linear and territorial principle, according to the principles of hierarchy and subordination (Nikač, 2019: 36-39). In terms of international police cooperation, the most important place is occupied by the Directorate for International Police Cooperation (UMOPS), as the holder and coordinator of police cooperation with foreign partners. The Directorate was established as a joint body for the implementation and improvement of international operational police cooperation in connection with the fight against crime. It includes the departments for Interpol affairs, Europol affairs, information management and coordination of other forms of international cooperation (Nikač, Simić, 2012: 360-368). The Criminal Police Directorate (UKP) is indisputably the most important line of work of the RS Ministry of Interior, whose inherent competence is the fight against crime and especially the most serious forms - organized crime (SBPOK), terrorism, etc. An important role in international police cooperation is also played by the Border Police Administration (UGP), which is engaged in the suppression of cross-border crime, as well as other lines of work within the MoI of the RS (Decree on the principles for internal organization of the Ministry of Interior, OG RS, 60/2017).





In the doctrine and practice of international (police) relations, there are different forms and types of international (police) cooperation that differ according to the subjects, character, content and other criteria. According to the number of subjects, bilateral, regional and global (multilateral) forms and types of cooperation are listed (Đorđević, 2010: 214-230). Bilateral cooperation includes cooperation between different countries and their bodies, and in our case the cooperation primarily with the RS Ministry of Interior state in this area. As stated, the Ministry of Interior of Serbia has concluded bilateral agreements on police cooperation with a large number of foreign police services in the surrounding countries and other countries (<http://www.mup.gov.rs>). Regional cooperation includes the Balkan countries and especially the member states of the former Yugoslavia, which today have significantly better police and other expert relations than political relations. The legal basis for regional cooperation are the mentioned conventions from Vienna and Bucharest, which were accepted by the countries of the region. As an example of the strongest regional cooperation on our continent, we cite the the EU under whose auspices the Europol and the Schengen Agreement were developed (Lopandić, Janjević, 1996). The global type of cooperation takes place at the broadest level on the basis of the signed multilateral agreements, conventions and important resolutions under the auspices of the UN, OSCE, Interpol and others.

In terms of content, international police cooperation includes the connections of our and foreign partners within the tasks in general and the tasks performed by specific lines of work. The exchange of information is the most important type of international police cooperation related to the activities of criminal groups and individuals, especially organized crime and terrorism. Today, the Joint Investigation Teams (JITs) are very relevant as joint investigative bodies of the signatory states (Nikač, Božić, 2017: 269-284), as well as the measures and actions taken at the request of a foreign state such as arrest warrants, arrest, interrogation, detention, extradition of persons (Nikač, Božić, 2016: 431-443). We further list joint police actions, mixed (joint) working bodies, training and education of members of the police of domestic and foreign services. The members of the RS MoI police are engaged outside the territory of Serbia within diplomatic and consular missions (liaison officers, police attachés) and in missions in multinational operations around the world (Articles 20-21 of the Law on Police).

## MECHANISMS OF REGIONAL POLICE COOPERATION

The PCE SEE (Police Cooperation Convention for SEE, 2006) provides for several important forms and types of cooperation such as: exchange of information, standardization of equipment and communications, joint police actions, protection against “information leakage”, and the measures to prevent interference with investigations. Particularly important tools for proving criminal offenses and determining criminal responsibility are special investigative techniques (SIT) and methods (SIM): witness protection, cooperating witness, controlled deliveries, exchange of DNA profiles and identification materials, staff training, reception and sending of liaison officers (Lopandić, Kronja, 2010: 195-212). Based on the Convention, the signatory states concluded bilateral agreements on mutual cooperation and accepted the obligation to harmonize national legislation, protect personal data and standardize communication systems (Nikač, Simić, 2012).

The Convention on SELEC provides for the establishment of a Center for the Enforcement of Rights in SEE, as the legal successor to the former SECI (Southeast Cooperation Initiative) Regional Center for Combating Transborder Crime (1999). The reorganization has contributed to greater engagement and cooperation of states in the fight against organized crime, terrorism, smuggling of people and goods (<http://www.secicenter.org/m106/About+SELEC>). In addition to the national contact points, the sig-





natory states of the Convention are represented at the SELEC headquarters with the representatives of the police and customs. The Centre's activities are aimed at efficient exchange of information, coordinated action of national police forces and law enforcement agencies, joint regional operations and investigations, organization of multilateral operations and coordination of investigative procedures in the Member States (Article 3, Law on Ratification of the SELEC Convention, OG - IA, 08/11). The Center carries out a significant scope of activities through specialized working groups for: narcotics and human trafficking, stolen vehicles, smuggling and customs fraud, financial and computer crime, terrorism, environmental protection and safety of transport of dangerous goods ([http://www.secicenter.org/m115/Operational\\_Activities](http://www.secicenter.org/m115/Operational_Activities)).

SELEC has achieved good results in several areas: smuggling of migrants (Operation "Hit" with the participants of RS and SRM), drug trafficking "Walker" - BiH, Croatia, Montenegro, RS; "Kranj" - RS, BiH, SLO, Austria, The Netherlands; "Vlasina" - Bulgaria, RS), terrorism ("Epopee" - Bulgaria, RS) (<http://www.secicenter.org/cautare.php?q=serbia&cauta=Search>).

The Regional Initiative for Migration, Asylum and Refugees (MARRI - Migration, Asylum, Refugees, Regional Initiative, 2003) was formed with the aim of preparing assistance programs for migrants, asylum seekers and displaced persons. The initiative is a form of coordination of signatory states within the integrated management of borders and processes of migration, asylum and visa regime. Within the Initiative, several significant projects have been implemented related to a single database for combating trafficking in human beings and supporting victims, combating illegal migration and increasing the security of documents (Lopandić, Kronja, 2010: 205-207). The initiative relies on good practice from the developed countries, universal standards and international law.

The Regional Anti-Corruption Initiative (RAI) is a mechanism for cooperation in the field of anti-corruption in the countries in the region that are particularly vulnerable during the transition process and due to underdeveloped institutions. Under the auspices of the RAI, independently and in cooperation with the UN, several significant projects and research on the independence of the judiciary, the development of mechanisms for the supervision of judicial bodies and law enforcement agencies have been implemented. Also, RAI is conceived as a regional forum for cooperation between the government and civil sector in each of the communities (Nikač, Božić, 2016: 431-443).

In addition to the government initiatives, we mention the significant non-governmental (civic) organizations, forms and mechanisms of cooperation such as the Association of Police Chiefs - SEPCA (Southeast Europe Police Chiefs Association), Women Police Officer Network - WPON (Women Police Officer Network), Police Forum - (PF Police Forum) (Nikač, 2015: 199-209), who have contributed to the development of international police cooperation within their missions.

International police cooperation between the RS Ministry of Interior and Europol is significantly expected as part of the activities on the implementation of the EU Strategy for the Western Balkans (2018) and the New Model published by the European Commission in February 2020 (Forca et al., 2019: 279-294).

## CONCLUSION

In peacetime, crime is undoubtedly one of the biggest problems of modern society and the international community as a whole. The consequences of crime are devastating, especially its most severe forms, such as organized crime and terrorism. The problem is even more complex in the societies that



are in the process of economic transition, political and social change, as is the case with ex-socialist countries and the states of the former SFRY. On the other hand, organized criminal groups know no borders and have established criminal cooperation in the function of making extra profit, to the detriment of the community and its members. All this has contributed to the enormous growth of the crime rate and its most severe forms in the developed, underdeveloped and transition countries.

The social response to galloping crime starts from the measures that countries take at the national level and with a multi-agency approach. The effective fight against crime, especially organized terrorism, has conditioned international criminal law and police cooperation between states and specialized international organizations. Regardless of political and other differences, international cooperation is an imperative for the survival of modern society and the international community. International (police) cooperation in the fight against crime takes place on a global (multilateral), regional and bilateral level and starts primarily from the principles of anti-criminal solidarity, apoliticalism and other principles and standards.

Regional international police cooperation of the Balkan states, especially the countries of the former SFRY, is today significantly above political cooperation and is based on the common interest in the fight against crime. The signing of the Convention on International Police Cooperation in SEE and the SELEC Convention, which have established the known mechanisms and have given good results, are of the greatest importance in that cooperation. The conventions were further implemented in the national legislation of the states and initiated the signing of bilateral agreements on cooperation between Serbia (MoI RS) and the states of the region.

In the context of the current migrant crisis and other challenges, risks and threats to national and international security, the implementation of the signed documents should be monitored in the coming period and international cooperation should be improved, especially with regard to human trafficking, cybercrime and new forms of crime. The idea of the possible adoption of a national strategy on international police cooperation in accordance with the existing strategic documents in the field of defense and security should also be considered.

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