



Ismailova S.R.*

DOI: 10.25108/2304-1730-1749.iolr.2017.52.195-214

**International cooperation in the field of criminal justice
as a form of interaction**

Abstract: The international cooperation in the field of criminal justice is a kind of interaction of social systems; excluding conflicts and competition.

Cooperation implies the unity of goals, principles, and norms of implementation.

The system of international cooperation is open, and its tasks can be supplemented and changed.

Key words: international cooperation; interaction; system; criminal justice; goal; parties; participants; form.

Criminal justice as nonlinear auto poetic social system represents the aggregate of the arranged elements which are in interrelation and interdependence.

Structurally, the criminal justice system consists of subsystems that are also systems of a certain level and have subsystems and correlations as well.

The criminal justice system implies the properties of its elements and qualities which are absent from them as components but produced as a result of the operation.

Correlations of the criminal justice system are subdivided into structural (interconnections of elements) and external (interconnections of the system and its structural elements with the external environment).

***Ismailova Sevinj Rauf qyzy** – doctoral student, the Academy of Public Administration under the President of the Republic of Azerbaijan, PhD, member of IOLR (Azerbaijan).E-mail: sevism@rambler.ru



The above scheme of the criminal justice system is a methodological base in the study of its correlations.

The concepts "cooperation" and "interaction" refer to the structural and external correlations of the criminal justice system, and therefore must be considered in a multi-angle relation.

The concepts "cooperation" and "interaction" aren't identical, they are different both in etymological and in philosophical, sociological, psychological and other aspects of knowledge.

In one of the meanings in the "Dictionary of the Russian Language" of S.I. Ozhegova to cooperate is to work together, to take part in a common cause [14, p. 653], and to interact is to be in interaction, where interaction is the mutual connection of two phenomena; mutual support [14, p. 68].

According to the dictionary of D.N. Ushakov, interaction means a mutual relationship and mutual conditioning and interaction of social phenomena [21, p. 26].

A new explanatory dictionary of T.F. Efremova defines interaction as the impact of objects, phenomena of reality on each other, causing changes in them [6, p. 17].

In the psychological aspect, which we consider fundamental in the processes of cognition, in the social interaction the behavior of one or a group of individuals acts as a stimulus for the behavior of another individual or another group and vice versa. At the same time, the process of direct or indirect influence of objects (subjects) on each other, which generates their mutual conditioning and connection, acts as an integrating factor contributing to the formation of structures [15, p. 56].

Such types of interaction are generally recognized as a cooperation (Commonwealth) as well as competition and conflict which are in the ratio of the systems to the subsystems and vice versa [1, p. 106; 12, p. 1310].



Interaction in the philosophical sense is defined as a category reflecting the processes of the influence of different objects on each other, their mutual conditioning, the change in state, the mutual transition, and the origination of one object from another as well.

In general, researchers identify the following common signs of interaction as a real phenomenon: integrity, the simultaneous existence of objects, the two-way communication, the mutual transition of objects, the interdependence of changes in parties, the internal self-activity of subjects. Each level of development of matter corresponds to its own form of interaction. The type of interaction becomes more complicated with the complication of the forms of motion. The highest form of motion - social - corresponds to a higher type of interaction [5, p. 76; 8, p. 46-47; 9, p. 19; 16, p. 90-91; 23, p. 60-68].

The above-mentioned allows us to claim that cooperation is a form of interaction in which the activities of its subjects (parties) are directed to the achievement of a common goal.

S.I. Ozhegova in "Dictionary of the Russian language" defines one of the meanings of the goal as "... to strive for something, what needs to be implemented" [14, 758].

V.V. Terekhin indicates that the content of the goal depends on the objective laws of reality, the needs of society and the state, the real capabilities of the subject, its functions and the means used [19, p. 32].

According to the provisions of philosophy, the goal accelerates and systemizes the process of integrating the various actions of an individual into a meaningful, logical sequence, i.e. acts as a direct motive, regulator, and guide of human activity [22, p. 763].

This purpose of the goal makes it a measure of the standards of relations and behavior, in which they (standards) become the state of axiological factors determining the stability of the social system. The realism of the goal implies the



achievement of concrete results with the availability of necessary and permissible means at certain intervals of time [11, p. 12-13].

The Code of Criminal Procedure of the Republic of Azerbaijan does not define the purpose of criminal proceedings. Moreover, unlike the Code of Criminal Procedure of several states, which defines the concepts of "criminal process" and "criminal justice" as same, the Azerbaijani legislation considers the criminal process as a set of procedural actions in criminal prosecution and procedural decisions (Article 7.0.3 of the Code of Criminal Procedure); however, it defines the criminal justice as pre-trial proceedings as well as proceedings in the courts of the first instance, court of appeal and cassation [20, p. 6-7].

As a result of this interpretation of the criminal process, the defending party is automatically excluded from, which does not take any procedural steps in criminal prosecution and does not accept procedural orders.

According to Art. 7.0.5 of the Code of Criminal Procedure of the Republic of Azerbaijan, the bodies conducting the criminal process include the bodies of inquiry, investigation, prosecution and the courts, in the procedure of which there is a criminal case or other materials related to criminal prosecution [20, p. 7].

However, Art. 7.0.18 The Code of Criminal Procedure refers to the participants in the criminal proceedings the inquirer, investigator, prosecutor, victim, private prosecutor, civil plaintiff, their legal representatives and representatives, the suspect and the accused, their legal representatives, defence counsel, the civil defendant, his/her legal representative or representative. The Art. 7.0.19 of the Code of Criminal Procedure about the parties of the criminal process refers to participants who prosecute or defend in criminal proceedings on the basis of principles of adversarial and equal rights [20, 8].

To the objectives of criminal justice in Art. 8 of the Code of Criminal Procedure include: protection of the individual, society and the state from criminal encroachments; protection of the person from cases of abuse of official powers in



connection with the actual or alleged commission of a crime; rapid disclosure of crimes, comprehensive, complete and objective clarification of all circumstances related to criminal prosecution; exposing and bringing to justice the perpetrators of the crime; the administration of justice to punish those accused of committing a crime with the establishment of their guilt and the rehabilitation of the innocent [20,p. 12].

In the legal literature of former USSR, there is no single point of view on the notion of "cooperation" and "interaction." The concept of interaction is formulated only in criminology, but it has a specific character.

Some authors consider these concepts same, some of them substitute "cooperation" with "legal aid"; others see it as a form of cooperation.

Thus, A.I. Natura and A.Kh-L Pikhov under legal assistance in criminal cases, understand the form of cooperation between the appropriate subjects of foreign states and international organizations in combating crime. The content is about the realization of help in facilitating the detection of crimes, their investigation, judicial review and enforcement of sentences as well as other actions and decisions on the basis of mutual actions acceptable under national laws and international agreements [13, p. 17-18].

A.I. Bastrykin believes that international cooperation means "purposeful and constant, joint and concerted, wide-ranging and diverse in forms and directions of the activities of law enforcement agencies, affecting common interests and aimed at achieving common goals in the fight against crime" [2, p. 25].

According to L.M. Gardotsky, cooperation means the performance of certain actions as a form of participation in joint activities, and the provision of legal aid - only what is done in cases when it comes to a case involving exclusively the interests of the state, which seeks help [4, p. 61].



E.G. Lyakhov identifies two forms of international cooperation: on a contractual basis and within the framework of international organizations [3, p. 11].

B.I. Spanov has the same view [18, p. 11-20], but V.P. Zimin writes about the treaty-legal (conventional) mechanism and about the institutional mechanism, which presupposes cooperation within the framework of international organizations of both general and regional character [7, p. 7].

E.B. Melnikova argues that international legal aid "... can enter into international cooperation as its independent part" [10, p. 271].

A.V. Sorokin writes that, national and international regulations and generally recognized legal principles of the activities of competent bodies and officials of the executive and judiciary powers, prosecutorial authorities of the participating states of cooperation regulate international cooperation in the field of criminal justice, and conduct the legitimate, justified, fair resolution of the criminal case on the merits at any stage of the proceedings [17, p. 9].

At the same time, mainly, all authors use the term "cooperation" and "interaction" as identical.

There is no consensus on the content of international cooperation in the field of criminal justice.

Thus, A.I. Natura, and A.Kh.-A.Pikhov consider the directions of cooperation in the field of criminal justice as follows:

"... 1) mutual observance of the rules of immunity established by international law (diplomatic immunity of representation and personal immunity of diplomatic personnel, immunity of persons benefiting international protection: consular institutions and their personnel, international organizations and their personnel, as well as representations of states and their personnel, etc.);

2) development and observance of international standards of guarantees of human rights and freedoms, which in one form or another is involved in criminal



proceedings (Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, etc.);

3) legal assistance (execution of operational search and procedural actions on mutual requests, etc.);

4) extradition;

5) transfer for serving punishment or compulsory treatment”[13, 18].

In the opinion of A.V. Sorokina, the content of international cooperation in the field of criminal justice is:

a) initiation on the conduction of procedural, investigative actions of the interested state by the competent authorities of another state which is in the jurisdiction of the interested state; b) realization of the request and direction of results to the state initiator of interaction; c) establishment of the bases and implementation of criminal prosecution of the citizens by inquiries of the foreign states or international organizations; d) Detention and extradition of persons suspected, accused of committing crimes, or convicted and evading execution of a court decision; e) the transfer of persons sentenced to deprivation of liberty to serve their sentences in the countries of which they are citizens; f) sending items relevant to criminal prosecution in a specific criminal case [17, p. 9-10].

A.V. Sorokin based on the systematization and analysis of normative legal acts regulating international cooperation in the field of criminal justice marks out the following areas which are the subject of international cooperation in the field of criminal justice and originates the process of integration: a) on issues of extradition; b) on issues of legal assistance in criminal cases; c) on issues of interdepartmental agreements and other arrangements with the Prosecutor General's Office of the Russian Federation and other subjects of cooperation; d) on issues of international organizations and forums; e) on the issues of people suffering from mental illnesses, and mental disorders [17, p. 10].

Based on the above, we can summarize the following:



- interaction is a type of activity;
- cooperation is a type of interaction excluding competition and the conflict between the parties;
- cooperation is a subsystem of the interaction system, but the interaction is a subsystem of larger systems (in our case, criminal justice systems);
- cooperation presupposes the existence of parties (members);
- cooperation implies unity of goals;
- norms and principles must regulate cooperation which is binding and unified for the parties.

It seems that the above provisions fully apply to international cooperation in the field of criminal justice.

References

1. Andreeva G.M. *Sotsial'naya psikhologiya [Social Psychology]*. Moscow, 2001, 363 p.
2. Bastrykin A.I., *Vzaimodeystvie sovetskogo ugolovno-protsessual'nogo prava i mezhdunarodnogo prava [Interaction of Soviet Criminal Procedure Law and International Law]*. Leningrad, 1986, 135 p.
3. Borodin S.V., Lyakhov E.G. *Mezhdunarodnoe sotrudnichestvo v bor'be s ugolovnoyi prestupnost'yu [International Cooperation on combatting with the criminal offence]*. Moscow, 1983, 200 p.
4. Gardotsky L.M. *Mezhdunarodnoe sotrudnichestvo po ugolovnym delam// Sotsialisticheskaya zakonnost' [International cooperation in criminal cases // Socialist legality]*. No. 6, 1979.
5. Gubsky E.F., Korableva G.V., Lutchenko V.A. *Kratkaya filosofskaya entsiklopediya [A Brief Philosophical Encyclopedia]*. Moscow, 1994, 379 p.



6. Efremova T.V. Novyi slovar' russkogo yazyka. Tolkovo-slovoobrazovatel'nyi. Russkiyi yazyk [New Dictionary of Russian. Explanatory and word-building. Russian language]. Moscow, 2000, 1209 p.
7. Zimin V.P. Mezhdunarodnoe sotrudnichestvo pravookhranitel'nykh organov [International cooperation of law enforcement agencies]. Moscow, 1990, 54 p.
8. Kemerov V.E. Vvedenie v sotsial'nuyu filosofiyu [Introduction to social philosophy]. Moscow, 1996, 215 p.
9. Gurbanov R.O. Kategoriya vzaimodeystviya v filosofii i nauchnom poznanii [The category of interaction in philosophy and scientific knowledge]. Dis... Ph.D.in Philos. Baku, 1989, 167 p.
10. Larin A.M., Melnikova E.B., Savitsky V.I. Ugolovnyi proress Rossii: Lektsii-ocherki. [The Criminal Process in Russia: Lectures-Articles]. Moscow, 1997, 314 p.
11. Malko A.V., Shundikov K.V. Tseli i sredstva v prave i pravovoyi politike [Goals and means in law and legal policy]. Saratov, 2003, 296 p.
12. Morozov V.A. Vzaimodeystvie: ponyatie, vidy i svoystva. Kreativnaya ekonomika [Interaction: concept, types and properties. Creative economics.]. 2015, 1310-1318.
13. Natura A., Pikhov A.Kh-A. Mezhdunarodnoe sotrudnichestvo v sfere ugolovnog sudoproizvodstva: organizatsionno-pravovyye osnovy, protsessuakl'nyi poryadok i formy vzaimodeystviya. Uchebno-prakticheskoe posobie [International cooperation in the field of criminal justice: organizational and legal basis, procedural order and forms of interaction. Educational and practical guide.]. Moscow, 2007, 136 p.
14. Ozhegov S.I. Slovar' russkogo yazyka [Dictionary of the Russian language]. Moscow, 1985, 846 p.
15. Petrovsky A.V., Yaroshevsky M.G. Psikhologiya (Slovar'; 2-e izd. ispr. i dop.) [Psychology. Dictionary, 2nd ed., rev. and add.]. Moscow, 1990, 494 p.



16. *Sovremennaya amerikanskaya sotsiologiya*. Pod red. V.I. Dobrenkova [Modern American Sociology. Ed. by Dobrenkova, V.I.]. Moscow, 1994, 296 p.

17. Sorokin A.V. *Problemy integratsii rossiyskogo ugolovnoho protsessa v mezhdunarodnoe sotrudnichestvo po ugolovnym delam*. Dis... kand. yurid. nauk [Problems of integration of the Russian criminal process into international cooperation in criminal cases.]. Dis... PhD in Law. Nizhny Novgorod, 2009, 189 p.

18. Spanov B.I. *Mezhdunarodnoe sotrudnichestvo organov predvaritel'nogo sledstviya MVD Rossiyskoyi Federatsii v sfere ugolovnoho sudoproizvodstva* [International cooperation of the preliminary investigation bodies of the Ministry of Internal Affairs of the Russian Federation in the field of criminal justice]. Dis... PhD in Law. Vladimir, 2004, 159 p.

19. Terekhin V.V. *Nedopustimye dokazatel'stva v ugolovnom protsesse Rossii: teoreticheskie i prikladnye aspekty* [Inadmissible Evidence in the Criminal Process of Russia: Theoretical and Applied Aspects.]. Dis... PhD in Law. N. Novgorod, 2006, 161 p.

20. *Ugolovno-protsessual'nyi kodeks Azerbajjanskoyi Respubliki (s izmen. i dopol. na 15 noyabray 2016 g.)* [Code of Criminal Procedure of the Republic of Azerbaijan (With modifications and additions, as for November 15, 2016)]. Baku, 2016, 397 p.

21. Ushakov, D.N., *Bol'shoi tolkovyi slovar' russkogo yazyka* [Large explanatory dictionary of the Russian Language]. Moscow, 2014, 960 p.

22. *Filosofskiy entsiklopedicheskiy slovar'* [Philosophical encyclopaedic dictionary]. Moscow, 1983, 458 p.

23. Chusovitin A.G. *Kontsepsiya vzaimodeystviya*. Dis... dokt. filosof. nauk [The concept of interaction. Dis. of Philos. Doct.]. Novosibirsk, 1991, 322 p.