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LEGAL COOPERATION IN CRIMINAL MATTERS: THIRTY-YEARS' EXPERIENCE OF THE BALTIC STATES

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Abstract. This article overviews the 30 years of experience of Lithuania, Estonia and Latvia in developing national systems of legal cooperation in criminal matters. In order to reveal individual experiences of the three States, the developments of law and practice of each State from the re-establishment of its independence to the present day are covered in separate sections of the article. For this purpose, experiences related to the development of national laws are presented over two time periods – before and after membership in the European Union. The experience of each State in concluding different international agreements on legal cooperation in criminal matters is also discussed. Considerable attention is paid to the implementation of the secondary legislation of the European Union, such as Council framework decisions and directives. Irrespective of the membership of the Baltic States in the European Union and the areas of freedom, security and justice developed in this area on the basis of the principle of mutual recognition, the system of cooperation with third countries retains its particular relevance and is also analysed in this article. In order to reveal the positive and negative experience of each State in this area after the re-establishment of independence, an analysis is conducted of both national and international legislative provisions. The article also highlights and explores the main transformation trends of international legal cooperation in criminal matters in an effort to create fast and smooth criminal proceedings in line with the highest standards of human rights protection, where much importance and significance is attributed to legal cooperation both within the European Union and in relationships with third countries.

Keywords: re-establishment of independence, Baltic States, legal cooperation, EU law, international agreements, bilateral agreements.

Introduction

International legal cooperation in criminal matters became particularly relevant in the early 19th century. The increasing migration of criminals led to the issue of returning them to the country where the crime was committed in order to bring them to justice. In Europe, the first international treaties specifically devoted to extradition were signed between the French Republic and Great Britain in 1843 and 1852. However, no criminal was extradited under these treaties (Moore, 1896, p. 750). The same fate was shared by the extradition provisions contained in Article 20 of the Treaty of Amiens between France, Spain, Holland and Great Britain, signed on 2 March 1802 (Moore, 1896, p. 750). The omission of international treaties led European States to regulate extradition by national law. The first extradition act was adopted in the Kingdom of Belgium in 1833 and was an important stimulus for the development of the institution of extradition (Billot, 1874, p. 284).

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Lithuania, Estonia and Latvia did not adopt an independent policy on extradition and other legal cooperation in criminal matters until the re-establishment of their States in 1918. However, the period of independent policy-making did not last long. In 1940, the three Baltic States were occupied, then annexed and isolated for long decades.

In the early 1990s, however, the three Baltic States availed themselves, taking advantage of the unique opportunity to restore their independence. This step, of fundamental importance and significance to our States, brought about a large range of challenges, including the need to create an effective mechanism of legal cooperation in criminal matters.

Lithuania, Estonia and Latvia had to build the fundamentals of their legal cooperation in criminal matters by, first of all, amending and improving the code of criminal procedure inherited from the Soviet times. At the same time, active efforts were made to conclude bilateral agreements with the nearest neighbours.

In the first stage of creation of the State governed by the rule of law, consistent efforts were made to move legal cooperation to conventional levels. This was pursued by acceding to the most important conventions of the Council of Europe designated to ensure legal cooperation in criminal matters. This process, which gained its momentum in the first decade of independence, has successfully, although at a slower pace, continued to date.

It is undoubted that the most significant period of existence of Lithuania, Estonia and Latvia has begun since 1 May 2004, i.e., with the European Union membership of these States. Until this time, however, these States had to accomplish tremendous work to enable their national systems to promptly transpose the whole law and *acquis communautaire* of the European Community. The implementation of this task was rather smooth.

It should be noted that one of the objectives of the EU is the development of the areas of freedom, security, and justice. It is the implementation of this objective that brings along the need for certain transformations in order to develop a fast and smooth criminal procedure in line with the highest standards of human rights protection, where legal cooperation is an important and significant constituent. The Baltic States implemented changes in this area, and continue to make them diligently. The relevant activities even predetermine the need to revise the system of criminal procedure rules governing legal cooperation in individual States.

Irrespective of active and wide-ranging efforts in improving criminal proceedings, the strengthening of legal cooperation and its development with third countries remains an important and significant area for our States. All of these States have been actively working towards this direction for more than thirty years.

At the national level, analysis has been limited to country-specific issues related to various aspects of legal cooperation in criminal matters. The following national authors have focused on extradition, the European Arrest Warrant and other problems of legal cooperation in criminal matters: Abramavičius et al. (2005); Čepas (2003); Čepas and Švedas (2008); Feldmane (2015); Jõks (1996); Kaija (2013); Meikališa (2001); Melnace (2012); Nevera (1999, 2016); Nevera and Melničenko (2009); Ploom (2010); and Švedas (2008, 2014).

Hence, the aim of this article is, for the first time at a scientific level, to analyse the provision of the criminal procedure codes and the criminal codes of the three Baltic States, their bilateral and multilateral agreements, as well as the secondary law of the EU as far as it relates to the national systems of legal cooperation in criminal matters, using the methods of systemic analysis, synthesis, critique, comparative analysis, and other methods of scientific research.

1. Legal Cooperation in Criminal Matters: Lithuanian Experience

The Act of the Re-Establishment of the State of Lithuania of 11 March 1990 *inter alia* states that the Supreme Council of the Republic of Lithuania, expressing sovereign power, by this Act begins to exercise the complete sovereignty of the State. One area in which sovereignty of the State is exercised is the implementation of independent criminal policy, which also is expressed in the legislation of criminal procedure law.

At the time of re-establishment of independence, the 1961 Criminal Procedure Code was in force in Lithuania, which regulated the issues of legal cooperation in criminal matters very narrowly (Criminal Procedure Code, 1961). Article 21 of the 1961 Criminal Procedure Code of Lithuania only stated that 'the procedure of communication by courts, prosecutor's offices, pre-trial investigation bodies with the relevant foreign institutions, as well as the procedure of execution of requests of these institutions shall be defined by laws and international agreements made by the Republic of Lithuania with the relevant States'.

1.1. Development of national law and signing of international agreements, 1990–2003

Thus, after the re-establishment of independence, Lithuania stepped into the first period of creation for the rule of law system. It is undoubted that, 50 years ago, the State forcibly erased from the European map the wording of the 1961 Criminal Procedure Code that defined the rules of legal cooperation, thus posing a problem of application of the international agreements that were in force during the inter-war period (1918–1940). Over that time, Lithuania signed a number of international agreements, also dealing with extradition (*Lithuanian agreements with foreign countries*, 1930, 1939). Such agreements were also signed with the USA and the Kingdom of Belgium, which stated that after the re-establishment of Lithuania's independence they would also adhere to the agreements signed before 1940 when dealing with extradition issues. Such positions of these States, most likely, were underpinned by the fact that they had never recognised the occupation and annexation of Lithuania; therefore, there was no legal basis to set aside the universal principle of *pacta sund servanda*. There was, indeed, no real need to adhere to them.

Since 1940, however, the world has changed considerably. The issues of legal cooperation in criminal matters were moved from the level of bilateral agreements to the level of conventions, which were drafted, implemented, and supervised both by the United Nations and by other international organizations, including the organization which became most important for the region of Europe: the Council of Europe.

For this reason, the newly re-established State had to accede to a number of international agreements dealing with different matters of legal cooperation. As these procedures take time, Lithuania started amending the 1961 Criminal Procedure Code and, at the same time, initiated and successfully completed the process of acceding to bilateral agreements on legal assistance and legal relations in civil, family and criminal matters. Naturally, due to proximity, such agreements started with Latvia, Estonia, Poland, Belarus, Ukraine, Moldova and the Russian Federation (*Treaties of the Republic of Lithuania on legal assistance and legal relations in civil, family and criminal matters*, 1994). The agreements currently in force regulate the transfer of criminal proceedings, extradition, taking over of sentenced persons, and other issues of execution of judgments.

These international agreements were significant for the start of Lithuania in developing bilateral legal relations in criminal matters with foreign countries, in particular its closest neighbours. Their significance was also manifested through the fact that the most advanced provisions on the legal cooperation of European States in criminal and other matters were transposed to such agreements.

Taking into consideration the fact that Article 21 of the 1961 Criminal Procedure Code did not conform to the needs of the independent State, in 1991, Lithuania introduced provisions regulating the procedure of communication for national courts, prosecutor's offices, pre-trial investigation and interrogation bodies with the relevant foreign States in the 1961 Criminal Procedure Code. Differently to the present-day procedure, requests for legal assistance had to be sent not only through the Ministry of Justice and the Prosecutor General's Office, but also through the Ministry of the Interior (Article 21) at that time. The procedure applicable to the requests of foreign authorities to carry out procedural actions (Article 21^1) was also regulated in a specific manner – authorisation was required from the Ministry of Justice, the Ministry of the Interior, or the Prosecutor General's Office for the requests received directly by courts, investigation or interrogation bodies.

It was obvious that the relevant provisions established a rather convoluted scheme for the execution of legal assistance requests. The necessity of such a procedure, however, was predetermined by the complicated inherited system of pre-trial investigation institutions and the prosecutor's office. Limited experience of legal cooperation in criminal matters was also an important factor for having such a procedure in place.

It was then that the fundamentals were also laid for requests to initiate or take over criminal proceedings (Article 21^2). The provisions related to the institution of criminal proceedings against citizens of the Republic of Lithuania who commit criminal offenses abroad and return to the Republic of Lithuania, and the rules on the sentencing of foreigners who commit criminal offenses in the territory of the Republic of Lithuania and leave Lithuania, have undergone little transformation over the period of thirty years. At present, there is an additional requirement to deal with the relevant issues in accordance with provisions of an international agreement; in addition, it is regulated that requests to open or take over criminal proceedings may also be made by international organisations.

At that time, the legal regulation also established the grounds and procedure of presenting requests to foreign States to extradite a person (Article 22), and grounds, conditions and procedure of extradition of persons from the Republic of Lithuania (Articles 22^2, 22^4). It is important to note that extradition had been addressed in Article 7^1 of the 1961 Criminal Code of Lithuania that was in force until 2003, and regulated the grounds for extradition of foreigners and Lithuanian citizens from Lithuania (Criminal Code, 1961)[4].

An assessment of the provisions of the 1961 Criminal Procedure Code demonstrates that, since 1991, legal cooperation of the Republic of Lithuania with foreign States became possible on the basis of international agreements or national law. As far as national laws were concerned, the only law that contained provisions on legal cooperation in criminal matters was, and, in principle, remained until 2003, the 1961 Criminal Procedure Code and Article 7^1 of the 1961 Criminal Code. That said, on 2 November 1992, the Constitution of the Republic of Lithuania came into force, article 13 of which established and still upholds the legal cooperation principle, which prohibits extradition of a citizen of the Republic of Lithuania to another State unless an international treaty of the Republic of Lithuania provides otherwise. On the other hand, we are well aware that this principle only allows or excludes extradition; it is not a provision of national law regulating extradition as such, or other forms of legal cooperation. No other national laws designated specifically for legal cooperation issues were adopted even when the new 2000 Criminal Procedure Code and the new 2002 Criminal Code, which was prepared by Lithuanian scholars and practitioners, came into force on 1 May 2003 (Law on the entry into force and implementation of the Criminal Code of the Republic of Lithuania, the Code of Criminal Procedure and the Code of Enforcement of Sentences, 2002).

It is also interesting to note that somewhat double standards for the extradition of Lithuanian citizens and foreigners were in force in Lithuania until that date. Under Article 7^1 of the 1961 Criminal Code, foreigners could be extradited only on the basis of an international agreement or, if there were none, in accordance with laws of the Republic of Lithuania. It was not allowed to extradite citizens of the Republic of Lithuania in any case. Meanwhile, the initial wording of Article 22^2 of the 1961 Criminal Procedure Code that was effective after independence stipulated that foreigners and Lithuanian citizens could be extradited abroad only if there was an international agreement.

Such a dualistic approach was retained in the law even after the entry into force of the Constitution of the Republic of Lithuania, which, as mentioned, allowed the extradition of Lithuanian citizens in principle only if such a possibility was regulated in a specific international agreement of the Republic of Lithuania. The grounds of and conditions for the extradition of foreigners and Lithuanian citizens were harmonized only after the entry into force of the new Criminal Procedure Code and the new Criminal Code. For both categories of persons, extradition became possible only in the presence of an international agreement.

Thus, differently than during the period of 1990 to 2003, Lithuania may currently cooperate with foreign States on the issues of extradition only on the basis of an international agreement. In the opinion of the authors, this maxim should also apply as far as the legal grounds of other forms of legal cooperation in criminal matters are concerned; however, practice shows that Lithuania, nevertheless, takes the opposite approach – it also submits

[4] It should be noted that Lithuania still has the tradition of regulating extradition (and also the European Arrest Warrant since 27 April 2004) both in the Criminal Procedure Code and in the Criminal Code.

and executes applications in the absence of an international treaty.[5] There have been cases, however, when an application submitted without an international agreement was treated by a foreign State as an *ad hoc* international agreement – for example, Canada[6].

It is interesting that such an approach of Lithuania is masked by legal cooperation based on the principle of good faith (Nevera, 2016, pp. 437–451). Good-faith legal cooperation, however, can be relied upon only when it is clearly set out in the Criminal Procedure Code or in a special national law. Lithuania does not have such a special law. Therefore, under Lithuanian law, there can be no international legal cooperation without an international agreement; however, in, practice this is not the case.[7]

The conclusion of bilateral or multilateral agreements with different States is a long, difficult and hard-to-implement process. For this reason, in the second half of the 20th century, both Europe and other regions initiated the adoption of various conventions meant to facilitate the cooperation of Member States on different issues of legal cooperation in criminal matters. It was these more universal, broader in scope and more time-tested instruments of legal cooperation in criminal matters that Lithuania had in focus when it signed the above-referred-to international agreements and made the first changes in the Criminal Procedure Code.

The most important of such international documents were undoubtedly the 1957 European Convention on Extradition (entry into force 18 September 1995), the 1959 European Convention on Mutual Assistance in Criminal Matters (entry into force 18 September 1995) and the 1970 European Convention on the International Validity of Criminal Judgments (entry into force 9 July 1998). The signing of these international agreements and their follow-up ratification have opened new avenues of legal cooperation in criminal matters for Lithuania both with the Member States of the Council of Europe and with some other countries, because the first two international agreements are also open for signature to non-Member States of the Council of Europe.

On the other hand, these international agreements brought along certain challenges for Lithuania. The first difficulty was the hierarchy of international agreements, because identical issues of legal cooperation were regulated both in bilateral agreements and in the relevant conventions that were in force. The problem was that the conventions provide that the Contracting States may not enter into bilateral or multilateral agreements on the issues addressed by such conventions, except in cases when amendments to convention provisions or facilitation of the application of their principles is intended.

The latter problem, in fact, has not been resolved to its full extent in Lithuania to date. However, it has been minimised as a large number of Contracting States are Member States of the EU. This is particularly relevant as far as the processes of extradition and mutual assistance are concerned because these forms of legal cooperation have the largest practical applicability.

On the other hand, it is important to emphasise that the process of entering into bilateral agreements that has been continuing to date[8] not only creates preconditions to make legal cooperation more effective and extensive, but it also keeps coding the above-referred-to problem in a certain sense. This is particularly relevant for the States

[5] Lithuania and Vietnam do not have any bilateral agreements on legal assistance and legal relationships in criminal matters. Neither do they participate in any extradition conventions together. Nevertheless, in 2016, Vietnam extradited Sergei Rachinstein, a businessman convicted of multi-million dollar tax fraud, to Lithuania (ELTA & BNS, 2016).

[6] Data of the General Prosecutor's Office of the Republic of Lithuania are available at the request of the authors.

[7] In accordance with the principle of good faith, Lithuania applied for legal assistance to: Afghanistan, Bahamas Islands, Belize, Bangladesh, Dominica, Guinea, Ecuador, Philippines, Iran, Japan, United Arab Emirates, Cameroon, Cayman Islands, Costa Rica, Panama, Seychelles. In the absence of an international agreement, Australia, Egypt and Kosovo applied to Lithuania with extradition requests, and Lithuania applied to Canada, Columbia, Egypt and Vietnam. Statistics of the General Prosecutor's Office of the Republic of Lithuania are available at request of the authors.

[8] For example, 2001 Extradition Treaty between the Government of the Republic of Lithuania and the Government of the United States of America; 2013 Agreement between the Government of the Republic of Lithuania and the Government of Georgia on Cooperation in the Fight against Crime; 2017 Treaty on Extradition between the Republic of Lithuania and the Republic of India. All bilateral agreements on legal assistance and legal relationships signed between Lithuania and foreign countries are published on the website of the Ministry of Foreign Affairs of the Republic of Lithuania (2022) or websites of the Seimas of the Republic of Lithuania (2022).

which are parties to the above-referred-to conventions of the Council of Europe, as bilateral agreements most often avoid defining the rules of relationships with other international agreements.

It should be noted that, during the period between 1990 and 2003, depending on the form and basis of legal cooperation, applications in Lithuania were submitted to and received from foreign States through the Ministry of Justice, the Ministry of the Interior, or the Prosecutor General Office of the Republic of Lithuania. Where a request was sent directly to the court or to the investigation or interrogation body, it could be executed only with the consent of the Ministry of Justice or, respectively, the Ministry of the Interior or the Prosecutor General Office (Articles 21 and 21[1] of the 1961 Criminal Procedure Code). With the coming into force of the new Criminal Procedure Code in 2003, two channels of legal cooperation remained: the Prosecutor General's Office and the Ministry of Justice. Where an international agreement provides for such a possibility, Lithuanian courts, the prosecutor's office, and pre-trial investigation bodies may send requests directly to foreign States and international organisations. Hence, in the new phase, Lithuania has implemented more equitable routes for legal cooperation in criminal matters.

1.2. Membership in the European Union and changes in legal cooperation

There is no doubt that Lithuania's membership in the EU since 1 May 2004 has opened a whole new page of legal cooperation for the State both with the EU and with countries that have already become third countries. With these countries, legal cooperation has continued towards the signing of bilateral international agreements and conventions adopted at Council of Europe level – for example: the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (2001); the Additional Protocol to the European Agreement on the Transmission of Applications for Legal Aid (2001); and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005).

Of course, the most distinct changes of the Lithuanian legal system were linked to the objective to approximate the Lithuanian legal system with the EU legal instruments that were in force at that time. This process began even before Lithuania's membership in the EU, when a whole series of national laws were drafted and implemented immediately after membership.

It should be noted that during the first years of Lithuania's membership in the EU, Lithuania, similarly to Latvia and Estonia, not only dealt with the issues of national law-making in line with the framework decisions of the Council that were of major impact on its criminal law and criminal procedure law, but also had to ratify, as supporting EU legal instruments, a range of EU conventions which regulated the grounds and procedure of legal cooperation between EU Member States in criminal matters. These included, for example, the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, relating to extradition between the Member States of the European Union (1996); and the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union adopted by the Council in accordance with Article 34 of the Treaty on European Union (2000). The importance of these EU legal instruments is obvious – they operate as back-up EU legal acts that can be used in relationships with those EU Member States which have not implemented a particular framework decision of the Council.

The Council Framework Decisions and the national laws adopted on their basis have allowed for the incorporation into national law of new models of legal cooperation in criminal matters, the emergence of which in EU law has been based on mutual recognition and mutual trust.[9] The most important instrument of legal cooperation between the EU countries since then has been the European Arrest Warrant. By virtue of this so-called simplified procedure

[9] The main Council Framework Decisions implemented at the Lithuania national level and strengthening legal cooperation in criminal matters between EU Member States have been the following: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States; Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union; Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial.

for the transfer of suspected offenders or convicted persons, the level of legal cooperation between Member States in criminal matters has become much faster and more extensive. In 2020, Lithuania issued 170 European Arrest Warrants (240 in 2019; 224 in 2018). On the basis of these legal instruments, 40 persons were transferred to Lithuania in 2020 (94 in 2019; 94 in 2018; 141 in 2017; 133 in 2016; 154 in 2015). Meanwhile, 93 persons were transferred from Lithuania to other EU Member States (112 in 2019; 98 on 2018; 88 in 2017; 114 in 2017; 103 in 2015).[10]

In the field of Lithuanian legal cooperation at the EU level, the Eurojust system, which was established by Council Decision 2002/187/JHA of 28 February 2002, setting up Eurojust with a view to reinforcing the fight against serious crime, also plays an important role. In 2020, the Lithuanian National Member for Eurojust provided assistance to prosecutors and pre-trial investigation officers in 337 cases (244 in 2019). At the request of the Lithuanian authorities, 76 communication cases were opened at Eurojust in 2020 (44 in 2019; 42 in 2018, 67 in 2017, 90 in 2016, 64 in 2015). The authorities mainly approached Eurojust to ensure the coordination of cross-border investigations and to provide cooperation assistance in the investigation of fraud, drug trafficking, trafficking in human beings and other serious crimes. Foreign countries applied to the Lithuanian Desk at Eurojust in 87 cases (80 in 2019; 90 in 2018, 80 in 2017, 72 in 2016, 62 in 2015).[11] Requests for assistance most often concerned crimes committed by criminal organizations, crimes committed by organized groups, money laundering, and drug trafficking. The role of Eurojust in the area of legal cooperation is important in the exchange of information and in direct consultations in order to avoid concurrent criminal proceedings, and also in order to concentrate them in one single Member State. Although concurrent proceedings do not violate the principle of *non bis in idem* in a direct sense, the aim of dealing with the issue of concurrent proceedings is predetermined by the objective to avoid the consequences of such proceedings, the most serious of which is the sentencing of the same person for the same offense in several EU Member States (Nevera & Melničenko, 2009, p. 95).

The development of EU law, in particular after the signing of the Treaty of Lisbon, led to the gradual transfer of sovereign powers of Member States in the areas of criminal law and criminal procedure law. In order to ensure effective EU policy, the Treaty of Lisbon also opened the gateway for decisions of the European Parliament and the Council in the area of criminal justice. The issues of legal cooperation at the EU level started to be regulated by directives. The importance of this secondary legal act of the EU is considerably greater than that of a framework decision of the Council because, in case the State does not implement provisions of a directive until the set time limit, it starts having a direct impact on the legal relationships between the person and the State.

Lithuania has implemented a number of directives in its national law,[12] and not all of them have had a considerable impact on the strengthening and developing of mutual legal cooperation between EU Member States. The most important are those which: regulate the right to a defence counsel in criminal proceedings and, under the European Arrest Warrant procedure, ensure legal aid for suspects and accused persons in criminal proceedings and for persons whose transfer is sought under the European Arrest Warrant procedures; and ensure the presumption of innocence as well as access to information in criminal proceedings. The importance of these directives should also be emphasised because of the fact that they secure a guarantee for the rights of suspected and accused persons at the highest level, even in cases when such rights are not implemented at the national level. Moreover, they also ensure a balance of rights of the parties to criminal proceedings. On the other hand, developments in EU law have, in fact, led to the need for the Criminal Procedure Code to separately regulate two systems of legal cooperation: the first with EU countries, and the second with third countries. This issue has not yet been discussed in Lithuania, probably because it is assumed that there is no such need. However, the experience of Latvia and Estonia shows

[10] Data of the General Prosecutor's Office of the Republic of Lithuania are available at the request of the authors.
[11] Data of the General Prosecutor's Office of the Republic of Lithuania are available at the request of the authors.
[12] The most important directives implemented in the national law of Lithuania are the following: Directive 2012/29 of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime; Directive 2013/48 of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty; Directive 2014/41 of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters; Directive 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.

that these two strands of legal cooperation need to be separated because of their individuality and different operational principles.

While legal cooperation at the EU level is a priority area, legal cooperation in criminal matters with third countries has been an important and significant direction of Lithuanian legal relations for several years now. In 2020, Lithuania received 399 legal assistance requests from third countries, and submitted 282 (238 in 2019). The extradition of persons from Lithuania was applied 19 times (18 in 2019; 13 in 2018, 12 in 2017, 11 in 2016, 14 in 2015), no request was not granted (1 in 2019; 4 in 2018, 6 in 2017, 2 in 2016, 3 in 2015), and 3 persons were extradited to Lithuania (6 in 2019; 6 in 2018, 3 in 2017, 7 in 2016, 7 in 2015).[13] The statistics show that the legal cooperation of Lithuania in criminal cases is steady and consistent. Nevertheless, the main problem remains that cooperation with certain third countries is further continued in the absence of international agreements, which are compulsory in accordance with the Criminal Procedure Code of the Republic of Lithuania. Considering such an approach in Lithuania and bearing in mind that legal cooperation based on the principle of good faith is impossible without a legal basis, there is a need for a national law to regulate all forms of legal cooperation with third countries in the absence of an international agreement. It is regrettable that this issue has not been discussed in Lithuania, even though the idea of an extradition law was announced even before Lithuania became a member of the EU (Nevera, 1999, pp. 14–20).

2. Legal Cooperation in Criminal Matters: Estonian Experience

Similarly to Lithuania and Latvia, in Estonia, the history of international legal cooperation in criminal matters has been shaped by the reforms of the justice system after the re-establishment of independence. The Supreme Soviet of the Republic of Estonia declared the restoration of the Republic of Estonia on 20 August 1991, proclaiming legal identity and continuity with the pre-World-War-II Republic of Estonia (Mälksoo, 2005, p. 145). Important steps in returning Estonia to the family of democratic States governed by the rule of law were the adoption of the Constitution of the Republic on 28 June 1992, becoming a member of the Council of Europe on 14 May 1993, accession to the EU on 1 May 2004 and the ratification of the European Convention on Human Rights and Fundamental Freedoms, which became binding for Estonia as of 16 April 1996 (Laffranque, 2015, pp. 4–5). The choices Estonia made in rebuilding its justice system and reforming its criminal law determined the competences of the judicial authorities in criminal procedure and their roles in matters of international legal cooperation (Sootak & Pikamäe, 2000, pp. 61–78). Similarly to Lithuania and Latvia, international agreements were important in developing Estonia's relations with other countries, including in the matters of legal cooperation.

2.1. Development of national law and signing of international agreements, 1991–2003

One of the first steps towards a modern justice system after the Soviet annexation era was the establishment of the Prosecutor's Office on 27 August 1991 (Decision of the Presidium of the Supreme Council of the Republic of Estonia, 1991). According to the Prosecutor's Office Act § 1(1) and 1(1^1), the Prosecutor's Office in Estonia is a government agency within the area of government of the Ministry of Justice, and is independent in the performance of its functions arising from law: the Prosecutor's Office participates in the planning of surveillance necessary to combat and detect criminal offenses, directs pre-trial criminal procedure and ensures the legality and efficiency thereof, represents public prosecution in court and performs other duties assigned by law (Prosecutor's Office Act, 2020). Paragraph 2(2) of the Prosecutor's Office Act stresses that prosecutors shall be independent in the performance of their duties and act only pursuant to law and according to their conscience. The aforementioned is relevant in legal cooperation, especially in the context of EU Framework Decision 2002/584 on the European Arrest Warrant, as the issuing judicial authority has to be independent and participate in the administration of criminal justice (*Minister for Justice and Equality v. OG & PI*, 2019).

The roles of the prosecutors and courts in international cooperation in criminal matters have also been determined by the model of criminal procedure chosen after the restoration of independence. The choice between the elements of competing versus noncompeting models of criminal procedure was discussed in the process of preparing the first draft of the new Code of Criminal Procedure in 1993 (Kergandberg, 2000, p. 86). Although the first draft of

[13] Data of the General Prosecutor's Office of the Republic of Lithuania are available at the request of the authors.

the Code of Criminal Procedure was not passed as a law, its ideas influenced the development of the Estonian Code of Criminal Procedure valid today (Lõhmus, 2020, pp. 198–199).

As there was an urgent need to develop cooperation in legal assistance with neighbouring States, bilateral legal assistance agreements covering a broad range of issues in the field of justice were concluded in the 1990s (Jõks, 1996, pp. 8–10). First, Estonia signed bilateral agreements with Latvia, Lithuania, Russia and Ukraine (Jõks, 1996, pp. 8–10). These agreements provided the citizens of contracting States with equal legal protection and required that the judicial institutions of the States provide mutual legal assistance in civil and criminal matters, recognising judgments in civil matters and judgments concerning compensation for damage caused by a criminal offense (Jõks, 1996, pp. 8–10). The foundation of police cooperation between Estonia and Finland was the bilateral agreement on crime prevention, which was signed on 7 June 1995 (Agreement of the Republic of Estonia and Finland, 1995). The Treaty between the United States of America and Estonia on Mutual Legal Assistance in Criminal Matters was signed in Washington on 2 April 1998 (Treaty between the United States of America and Estonia, 1998). The same year, an Agreement of the Republic of Estonia and the Republic of Poland on Provision of Legal Assistance and Legal Cooperation in Civil, Labour and Criminal Matters was signed on 27 November 1999 (Agreement of the Republic of Estonia and the Republic of Poland, 1999).

Alongside this, the objective of acceding the Conventions of the Council of Europe was undertaken: in 1997, a number of Conventions of the Council of Europe, including the European Convention on Extradition, were ratified by the Estonian Parliament (Laatsit, 1999, p. 192–194). Similar to other Baltic States, before accession to the EU, cooperation in criminal matters in Estonia was based on individual bilateral agreements with other countries and multilateral international agreements in the Council of Europe framework. After accession to the EU, due to the primacy of EU law, bilateral agreements between Estonia and EU Member States remained relevant mostly in matters not covered by EU law (*Yassin Abdullah Kadi & Al Barakaat International Foundation v. Council of the European Union and Commission of the European Communities*, 2008, para. 285, 291).

2.2. Membership in the European Union and changes in legal cooperation

Analogous to Lithuania and Latvia, Estonia carried out a profound criminal law reform around the period of accession to the EU. After a long preparation period, the Estonian Code of Criminal Procedure was passed on 12 February 2003 and entered into force on 1 July 2004 (Code of Criminal Procedure, 2003). By that time, the new Penal Code and a number of laws shaping Estonia's courts system had been adopted (Lõhmus, 2020, pp. 198–199). In correlation with becoming a member of the EU, the provisions on international cooperation in criminal matters were revised, and the amended Code of Criminal Procedure that entered into force on 1 July 2004 already contained both the forms of legal cooperation based on the Council of Europe Conventions and those deriving from EU law (Code of Criminal Procedure, 2003). However, already in 2009, a draft act to thoroughly reform criminal procedure was launched to add even more elements from the common law tradition and create a better balance between the elements of competing and noncompeting models of criminal procedure in favour of the former (Lõhmus, 2020, p. 199). As the revision influenced the roles of the courts and the Prosecutor's Office in criminal procedure, they also affected their competences in matters of legal cooperation.

As Estonia has chosen the model in which the pre-trial stage of the criminal procedure is non-competitive, according to § 211(2) of the Code of Criminal Procedure, an investigative body and the Prosecutor's Office has the obligation to gather incriminatory and exculpatory evidence to ascertain the facts vindicating or accusing the suspect (Code of Criminal Procedure, 2021). Paragraph 30(1) of the Code of Criminal Procedure states that the Prosecutor's Office directs pre-court proceedings and ensures the legality and efficiency thereof and represents public prosecution in court. This means that investigators are guided by the instructions given by the prosecutor in charge of the criminal investigation. Although the Prosecutor's Office has a key role in international cooperation during the pre-trial stage of the criminal procedure, it is balanced by the provisions demanding court authorisation for certain procedural acts. For instance, in accordance with § 130(2) of the Code of Criminal Procedure, in pre-court proceedings, a suspect or accused may be taken into custody at the request of the Prosecutor's Office on the basis of an order of a preliminary investigation judge or on the basis of a court order. The specific roles of the prosecutors and courts in international cooperation in criminal matters are described in

chapter 19 of the Code of Criminal Procedure, which contains the regulation regarding legal cooperation in criminal matters.

The regulation in chapter 19 of the Estonian Code of Criminal Procedure derives from the EU and international agreements. Paragraph 433(1) of the Code of Criminal Procedure states that international cooperation in criminal proceedings comprises the extradition of persons to foreign States, mutual assistance between States in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, cooperation with the International Criminal Court and Eurojust, and extradition to Member States of the EU. The structure of chapter 19 of the Estonian Code of Criminal Procedure has been criticised for not referring to the legal acts the regulation originates from (Ploom, 2010, p. 73). For example, the division of surrender does not refer to Council Framework Decision 2002/584 of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States. This kind of approach makes it difficult for practitioners to connect the regulation in the domestic law to its source in EU or international law (Ploom, 2010, p. 73).

As stated in § 435(1) of the Code of Criminal Procedure, the central authority for international cooperation in criminal proceedings is the Ministry of Justice, unless otherwise provided by law or international legislation binding on the Republic of Estonia. This means that most of the requests in the mutual legal assistance and mutual recognition regime must still be sent to the Ministry of Justice, which verifies whether a request meets the requirements and communicates it to the competent judicial authority. Courts, the Prosecutors' Offices, the Police and Border Guard Board, the Security Police Board, the Tax and Customs Board, the Environmental Inspectorate, the Competition Board, and the Military Police are the judicial authorities competent to engage in international cooperation in criminal proceedings to the extent provided by law and international legislation binding on the Republic of Estonia (para. 435(2) of the Code of Criminal Procedure). The role of the Ministry of Justice as a central authority for international cooperation in criminal proceedings was significantly reduced, as more direct communication between the judicial authorities was allowed with the transposition of a group of EU directives in 2015 (Act amending the Code of Criminal Procedure and other connecting acts, 2014). The same happened in 2017, when Directive 2014/41 regarding the European Investigation Order was implemented (Act amending the Code of Criminal Procedure and the Code of Criminal Procedure Implementation Act, 2017).

As the EU has been actively legislating in the field of legal cooperation in criminal matters, the regulation of legal cooperation in criminal proceedings in the Estonian Code of Criminal Procedure has frequently been revised correspondingly. Due to the numerous amendments, the coherence of chapter 19 has suffered, and the division between the general and special provisions requires clarification (Justiitsministeerium, 2020, p. 1). Significant changes to chapter 19 of the Code of Criminal Procedure were made recently in connection with Directive 2014/41 regarding the European Investigation Order, which was transposed into Estonian national legislation on 6 July 2017. Since then, in accordance with Article 34 of Directive 2014/41/EU, the European Investigation Order has become a main legal tool to gather trans-border evidence, and mutual legal assistance procedures remain applicable only to matters falling outside of the scope of European Investigation Orders, such as legal cooperation with countries not participating in the European Investigation Order regime. In 2019, Estonia issued and submitted close to 300 European Investigation Orders and more than 70 requests for mutual legal assistance in criminal matters (Prokuratuuri aastaraamatud, 2019).

2.3. Current reforms

Up to the present moment, Estonia has faced a challenge in meeting the requirements of international and EU law concerning the regulation of cooperation matters. A work group in the Ministry of Justice has concluded that the regulation on most of the cooperation matters in the Code of Criminal Procedure needs to be changed (Pere, 2019; Plekksepp, 2019). In 2015, the Ministry of Justice started the next profound multi-staged revision of the Code of Criminal Procedure (Justiitsministeerium, 2015). As part of this ongoing process, the regulation in the Code of Criminal Procedure concerning cooperation in criminal matters is currently under review. Another category of challenges for the legislator, also tied to the issues of international cooperation, concerns the questions on how to make criminal proceedings fully digital and solve the problems relating to seizing digital evidence (Laurits, 2016, pp. 113–120).

Among other suggestions, the working group in the Ministry of Justice has pointed out the need to change the rules of surrender, taking into account the recent case law of the Court of Justice of the EU (Pere, 2019, pp. 21–28; Plekksepp, 2019, pp. 11–16). The survey also draws attention to further regulating the exchange of information collected by surveillance activities between EU Member States (Pere, 2019, pp. 29–31; Plekksepp, 2019, p. 16). The problems regarding the latter are not solely related to the gaps in Estonian law, but indicate that there might be a need for common EU standards in this field (Pere, 2019, pp. 29–31). The current detailed regulation in chapter 3^1 of the Code of Criminal Procedure on surveillance activities does not fit together with the European Investigation Orders regime, and the problems faced by practitioners remain unaddressed in law (Pere, 2019, pp. 29–31).

The legislative intent drawn up by the Ministry of Justice in 2020 to prepare a draft Act acknowledges the problems pointed out by experts in the current regulation, and sets a goal of changing the part of the Code of Criminal Procedure that covers the matters of international cooperation (Justiitsministeerium, 2020, pp. 1–17). The revision planned should enhance the cooperation of Estonian judicial authorities with EU agencies, correct the errors formerly made in the implementation of international and EU law, help to assure the rights of the participants in criminal proceedings, and facilitate legal certainty (Justiitsministeerium, 2020, pp. 1–17).

3. Legal cooperation in criminal matters: Latvian experience

Similarly to the other Baltic States, the legal system of Latvia has been subject to several periods of transformation. The first period began on 21 August 1991, when Latvia re-established its independence. Within a short period of time, Latvia had to move from the Soviet to the continental European legal system in the form of a democratic and legal State. The second period pertains to Latvia's accession to the EU.

As Latvia re-established its independence, citizens had to rediscover the importance of the idea of a legal State. Not only did we have to understand these values academically, but also to ensure their practical implementation in legal reality. The creation of the new legal system was a serious challenge not only for the legislator, but also for the Latvian community of lawyers. The Western legal system is based not only on well-composed normative acts, but also on the skills of law enforcement actors to fairly apply the rights created by the legislator (Āboltiņa, 2012).

In order to transform the two legal reform processes (Kaija, 2013, pp. 15–20) in Latvia, the volume of the required legislative work was significantly higher than in most other EU countries. This is because these other countries were characterized by a stable legal system that had been formed for decades, where legal principles did not all have to be rapidly altered because instead they had been continuously developed.

3.1. The development of national law, 1990–2005

It is important to stress that in the 1990s the transformation of criminal law was the least problematic area of law compared to other rights. Immediately after the restoration of independence, after the abolition of anti-democratic criminal law rules (anti-Soviet propaganda, etc.), Latvian criminal law theory generally met the requirements of a democratic legal State. However, many criminal-political concepts were outdated (Meļķisis, 1999), and a new legal framework for international cooperation was also needed.

As one of the first laws in the field of international cooperation in criminal matters, the Law of the Republic of Latvia on Amendments and Supplements to the Latvian Soviet Criminal Procedure Code and the Latvian Soviet Civil Procedure Code was adopted on 13 August 1991 (On amendments and supplements to the Code of Criminal Procedure of the Latvian SSR and the Code of Civil Procedure of the Latvian SSR, 1991). The amendments provided the procedures under which judicial and pre-trial investigation authorities would contact relevant foreign authorities following the arrangements determined by the laws in force in the Republic of Latvia and in accordance with international agreements concluded by the Republic of Latvia with relevant foreign States. Communication with foreign States with whom agreements were lacking would take place via the Ministry of Foreign Affairs of the Republic of Latvia.

The subsequent laws to be mentioned refer to the Law of the Republic of Latvia on Amendments and Supplements to the Latvian Civil Procedure Code, Latvian Criminal Code and Latvian Criminal Procedure Code of 27 April 1993 (On amendments and supplements to the Latvian Civil Procedure Code, the Latvian Criminal Code and the Latvian Code of Criminal Procedure, 1993). This law amended the existing articles on cooperation and provided supplements for the Criminal Procedure Code with a number of new significant articles, providing procedures for the following: 1) communication between the court, prosecution office and inquiry authorities, on one hand, and relevant foreign authorities on the other; 2) the application of the criminal procedure law to foreign citizens and stateless persons; 3) carrying out of assignments of foreign authorities while conducting procedural operations; 4) tackling issues pertaining to the requests of foreign institutions to initiate a criminal case, initiate or take over criminal proceedings in relation to a person who had committed a criminal offense abroad and had returned to the Republic of Latvia; and 5) the application of a procedure to a foreign citizen who had committed a criminal offense in the territory of the Republic of Latvia and then returned to their home country. The amendments also established the procedure for extradition requests concerning the persons to be directed and determined the limits of criminal liability of the persons extradited abroad.

The norms of the Latvian Criminal Procedure Code were subsequently supplemented and amended by the laws of the Republic of Latvia of 2 June 1994, 20 February 1997, 14 October 1998 and 22 December 1999, which specified the procedure for extradition of a person, determined the terms and deadlines for the detention of a foreign citizen and other issues. International cooperation and relevant procedures in Latvia were regulated not only by the Latvian Criminal Procedure Code, which sets out the general principles of cooperation, but also by international agreements concluded by the Republic of Latvia or its institutions with the respective countries or their institutions. In 1999, the Criminal Law entered into force. There was a great need for the adoption of a new Criminal Procedure Law because the old Criminal Procedure Code of the Latvian Soviet Republic of 1961 was still applicable in Latvia, which was renamed the Latvian Criminal Procedure Code after the restoration of State independence. Finally, on 1 October 2005, the Criminal Procedure Law entered into force in Latvia (Criminal Procedure Law, 2005), which was designed to attain the following aims: 1) to create an opportunity for Latvian law enforcement institutions to act in accordance with the principles of criminal justice of the Council of Europe and the EU and to use a more modern solution of criminal procedural relations recognized in the world; 2) to prevent the expanding backlog of pending cases in pre-trial investigation institutions and courts as well as to reduce lengthy legal proceedings; and 3) to reduce the basis for complaints about violations of human rights. Part C of the Criminal Procedure Code specifically focuses on international cooperation in criminal law and stipulates that Latvia requests and ensures a foreign country with cooperation in the following areas of criminal law: 1) extradition of a person for criminal prosecution, trial or execution of a judgment, or determination of coercive measures of a medical nature; 2) transfer of criminal proceedings; 3) execution of procedural actions; 4) execution of security measures not related to deprivation of liberty; 5) recognition and enforcement of a judgment; and 6) in other cases provided for in international agreements.

3.2. Membership in the European Union and changes in legal cooperation

Less than two years before the adoption of the Criminal Procedure Law, another very important event took place when, on 1 May 2004, Latvia became a full member of the EU. Prior to and especially after accession to the EU, a number of laws were developed in Latvia in order to adapt the national legal framework to the EU regulation.

In the past in Latvia, as well as in other EU countries, in order to ensure more efficient and expeditious criminal investigations, legal cooperation in criminal matters within the EU was largely determined by international agreements, such as the Conventions on: Mutual Assistance in Criminal Matters; the Transfer of Legal Proceedings; the Execution of Criminal Sentences; the Transfer of Sentenced Persons; and Extradition. These Conventions mainly regulate the issues that do not directly affect an individual; instead, they regulate the mechanism of cooperation between competent national authorities and determine the procedural arrangements for cooperation. Then, within the EU, traditional mutual assistance is replaced by new instruments based on mutual recognition.

For a long time, criminal law was the sovereign domain of each country, including Latvia; however, over time more and more sovereign rights have been transferred to the EU. With the implementation of the Lisbon Treaty

in particular, criminal law is being aligned with other areas of EU activities. The EU has acquired a clear legal basis for the adoption of directives in criminal law, which is done in order to ensure the effective implementation of EU policies involving harmonisation measures. The Lisbon Treaty gives the EU wide competence in both criminal and substantive criminal law (Towards an EU Criminal Policy, 2011).

At present, legal cooperation in criminal matters in the EU is one of the fastest growing areas. The impact of EU regulation in Latvia has been seen in several important directions. For example, the Criminal Procedure Law in Latvia has been supplemented and enhanced by the norms pertaining to more than 10 EU Council Framework Decisions,[14] which have significantly contributed to the development of the mutual legal assistance and mutual recognition framework. One of the most extensive amendments to Part C of the Criminal Procedure Law entered into force on 1 July 2012 when Part C was restructured, separating the legal framework applicable in cooperation with EU countries from that applicable in cooperation with other countries.

Under Article 34(2)(b) of the Treaty on the EU, firstly, framework decisions are binding to Member States as to the result to be attained but leave the choice of form and methods to the national authorities, and, secondly, they do not exercise a direct effect. However, although Framework Decisions cannot have a direct effect, their binding nature means that national authorities, in particular national courts, have an obligation to interpret national law in conformity with EU law, allowing national courts to implement their competence in order to ensure the full effectiveness of EU law in cases submitted to them. In applying national law, the national court must interpret it, which is why it has an obligation to conduct interpretation taking into account, as far as possible, the wording and purpose of the Framework Decision in order to achieve the expected results (Judgment of Ognyanov, 2016, para. 56, 58, 59).

Another aspect to consider is the fact that the obligation of the national court is to take account of the content of the Framework Decision in interpreting and applying the provisions of national law, and it is constrained by general principles of law – in particular, the principle of legal certainty and the principle of non-retroactivity. These principles do not preclude that such an obligation, passed on the basis of the Framework Decision and irrespective of the law adopted for its implementation, may impose or increase criminal liability on persons who violate those legal provisions in their activities (Judgment of Daniel Adam Popławski, 2015, para. 32, 33).

Another development of the Criminal Procedure Law includes amendments aimed at strengthening procedural guarantees for persons involved in criminal proceedings, both the person entitled to defence and the victim. The amendments were designed to implement minimum standards in criminal proceedings in national law, which resulted from the directives of the European Parliament and of the Council.[15] Evaluating the requirements of the directives and their impact on the Latvian legal norms of criminal procedure and their practical application, it can be concluded that changes were necessary both in the norms of the Criminal Procedure Law and in the practical execution of criminal proceedings. Changes in the Criminal Procedure Law, however, would not be considered fundamental, which completely changed the understanding of the range of rights of victims or other persons involved in criminal proceedings. It should be noted that in some aspects the Criminal Procedure Law even provides for a broader and more favourable regulation of, for example, the status of a victim. It should also be noted that the directive lays down minimum rules, and each Member State may extend the rights set out in the directive in order to ensure a higher level of protection.

In the context of legal cooperation in criminal matters, Directive 2011/99 of the European Parliament and of the Council of 13 December 2011 on the European Protection Order should be emphasized. The Directive was transposed in Latvia by amendments to the Criminal Procedure Law, which entered into force on 25 February 2015. The introduced mechanism provides that the protection provided to a natural person in one Member State remains and continues to apply in any other Member State to which the person is moving or has moved. It also ensures that citizens of the EU do not lose protection under Article 3(2) of the EU Treaty and Article 21 of the

[14] See footnote 9. In additional, for example: Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings.
[15] See footnote 12.

Treaty on the EU Functioning by legally exercising their right to free movement and to residence in the territory of the Member States.

The protection measure included in the European Protection Order adopted by the EU Member State may be recognised in Latvia by the State Police, making a decision and applying to the person a highly similar protection measure in accordance with the security measures provided for in the Criminal Procedure Law or alternative sanctions or probation measures included in the Criminal Law.

In the context of the exchange of information between Member States and EU agencies, reference should be made to Directive 2014/41 of the European Parliament and of the Council of 3 April 2014 on the European Investigation Order in Criminal Matters, which has been implemented by introducing amendments to the Criminal Procedure Law, which entered into force on 26 April 2017. This Directive extended the possibilities for the EU Member States to obtain evidence on the territory of another Member State and facilitated obtaining it, since it is necessary to fill in one single form document, the European Investigation Order, in order to obtain new or existing evidence and to obtain evidence in real time. This replaced the arrangements previously in place, which required a two-step system for obtaining specific evidence, initially asking for a freeze of evidence, but subsequently requesting the transfer of that evidence in the form of a separate request for legal assistance. It should be noted that the provisions and regulations of the Directive are not binding in cooperation with Denmark and Ireland.

In criminal legal cooperation, the competent authorities of Latvia are entitled to cooperate with Eurojust and the European Judicial Network in Criminal Matters. The immediate challenge for the future in the field of legal cooperation relates to the adoption of Council Regulation 2017/1939 of 12 October 2017 in order to implement enhanced cooperation for the establishment of the European Public Prosecutor's Office, on the basis of which the European Public Prosecutor's Office (hereinafter – EPPO) will be established with the aim to protect the financial interests of the EU. However, on 14 November 2018, Regulation 2018/1805 of the European Parliament and of the Council was adopted on 14 November 2018 on the Mutual Recognition of Freezing Orders and Confiscation Orders. In accordance with Article 41 of the Regulation, this Regulation will start to apply to all EU Member States with the exception of Denmark and Ireland from 19 December 2020.

It should be noted that, evaluating the norms included in Part C of the Criminal Procedure Code, it can be concluded that the legal regulation of international criminal co-operation can be divided into two types: 1) legal norms regarding the Member States of the EU; 2) legal norms for all countries that are not Member States of the EU. Latvia has concluded several agreements with foreign States on legal assistance and legal relations in civil, family and criminal matters.[16] However, having analysed the statistical data provided by the Prosecutor General's Office for International Cooperation, it can be concluded that cooperation is most actively conducted with EU countries. For example, when assessing requests for extradition from foreign countries for the period of 5 years, it is concluded that overall there were 79 requests received in 2015, with only 10 requests for extradition from outside the EU. In 2016, a total of 80 requests for extradition were received, of which 64 were European arrest decisions, while only 16 were extradition requests from outside the EU. Similar trends were also observed in 2017, when a total of 83 requests were received, of which 10 requests were from outside the EU. As for 2018, the total number of received requests was 66, of which 16 were from outside the EU. In 2019, a total of 80 requests were received, of which 13 were from outside the EU. In 2020, only 55 requests were received, of which 10 were from outside the EU (Latvijas Republikas ģenerālprokurora ziņojums par 2020. gadā paveikto un 2021. gada darbības prioritātēm, 2021, p. 136). In turn, in 2021, 68 extradition requests were received from abroad, including 10 extradition requests from non - EU countries (Latvijas Republikas ģenerālprokurora ziņojums par 2021. Gadā paveikto un 2022. Gada darbības prioritātēm, 2022, p. 228).

[16] For example: Treaty between the Republic of Latvia and the government of the United States of America on mutual legal assistance in criminal matters (1997); Treaty between the Republic of Latvia and the People's Republic of China on Mutual Judicial Assistance in Criminal Matters (2004). A full list of main treaties of Latvia is available at https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX%3A52010XC1217%2801%29.

4. Assessing experiences and prospects for legal cooperation

One of the most significant benefits in terms of comparative research is the opportunity to gain knowledge of different legal systems and different countries, which allows us to find both commonalities and differences. It must be admitted that Latvia, Lithuania and Estonia have a lot in common. This is primarily due to the similar historical development of these countries over the last 30 years.

The three Baltic States have started to reform their national legal norms at essentially the same time, which has led to their independent policies on legal cooperation in criminal matters. The policy of signing international treaties and acceding to international conventions already in force was also developed independently, but along very similar lines. This ensured the smooth and efficient handling of various legal cooperation issues, allowed for the transformation of their legal systems and provided adequate preparation for the major challenges of EU membership.

The period of membership of Lithuania, Estonia and Latvia in the EU and the experience of the European Court of Human Rights have shown that the desire to ensure that the level of human rights does not fall below the standards guaranteed by the Charter of Fundamental Rights of the EU or by the European Court of Human Rights has led to periodic changes in the area of legal cooperation in criminal matters. Much of this change is also linked to the implementation of the Lisbon Treaty, which gave the EU a clear legal basis for adopting directives in the field of criminal law. The changes brought about by the Directives also require changes at the national level. In fact, their multiplicity and pertinence make it possible to say that legal cooperation in criminal matters is becoming the fastest-growing area. It is this aspect that leads to the need to review national regulation. Latvia largely met this challenge in 2012, when it separated the systems of legal cooperation between EU countries and third countries in the Criminal Procedure Code. Estonia identified this need in 2015 by initiating a thorough and multi-level review of the Criminal Procedure Code. Regrettably, in Lithuania there is no discussion on this issue yet, although the need for it is clear. There is also a lack of a national law on extradition, although history and the experience of other countries show that it is necessary to ensure smooth legal cooperation based on the principle of goodwill.

Undoubtedly, the regulation of criminal procedure will continue to be significantly affected by the development of EU law, which aims at harmonising rights and promoting cross-border cooperation. The activities of the EPPO will become an important area of legal cooperation between the Member States of the EU in the near future. The challenges related to the establishment of the EPPO and its cooperation with the national Prosecutor's Office will become known in the near future, after the EPPO starts operating. As the EPPO will operate within national legal systems, the co-existence of EU and national law may raise issues of further integration in the field of criminal procedure.

The processes of digitisation of criminal procedure that are gaining momentum both in the Baltic States and in other Member States of the EU will also have a major impact on the area of legal cooperation. It is likely that EU legal instruments will undergo considerable transformations in this area in order to ensure smooth cooperation of judicial institutions and also a high level of protection of the rights of all participants in criminal proceedings. This challenge will be in particular relevant in developing legal cooperation with third countries because the national rules of EU Member States regulating legal cooperation with third countries are currently applied in isolation to a certain extent, and there is no information exchange system which would be unified at least at the minimum level.

Conclusions

1. After the re-establishment of independence, Lithuania, Estonia and Latvia have accomplished much in order to create frameworks of legal cooperation in criminal matters that are underpinned by national laws, EU legal acts, and international agreements. Although each State dealt with the issues of legal cooperation arrangements differently, they have succeeded in ensuring the smooth and effective application of different legal cooperation issues.

2. At present, the process of legal transformation in Lithuania, Estonia and Latvia has been completed. The Baltic countries are fully-fledged members of the Western legal system with confidence in the values of a democratic and legal State, such as respect, human rights and the rule of law. The three countries are aware of themselves as part of a united Europe and recognize the value system on which the EU is based. A significant amount of work has been completed over the period of the last 30 years, the evidence of which is a system that facilitates and accelerates international cooperation in the field of criminal law.
3. The ambition to ensure that the level of human rights should be not lower than the guaranteed EU standards means that legal cooperation in criminal matters must be developed periodically. Moreover, the pursuit of the relevant goals should predetermine reforms in the provisions of national criminal procedure codes regulating legal cooperation.
4. Undoubtedly, the challenges related to the establishment of the EPPO and its cooperation with the national Prosecutor's Office will become known in the near future, after the EPPO starts operating.
5. The digitisation of criminal proceedings will also have a significant impact on the area of legal cooperation. This challenge will be particularly relevant for the development of legal cooperation with third countries, as currently the national legal rules of the EU Member States on legal cooperation with third countries are applied in a somewhat isolated manner, without a system of information exchange that is harmonised at least at a minimum level. For this reason, the right of citizens of EU Member States and their family members to move and reside freely within the territory of the EU is not ensured if a person is detained in any other EU Member State as a result of an international search initiated by a third country.
6. A search for statistics relevant to the research showed that they are given different meanings in the Baltic countries. In Lithuania and Latvia, official statistics are given more attention and can therefore provide much more information when assessing the situation of legal cooperation, correlations with legislative developments and tendencies.
7. The experience of legal cooperation with third countries also shows that there is a need to address not only the issue of the development of such cooperation but also the need for national laws to regulate legal assistance based on the principle of good faith – otherwise, such processes may not be considered as legal. This ensures, at least, the fundamental rights of suspects, the importance of which has been emphasised in all EU legislation and international legal instruments that are binding for all the Member States of the EU.

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