

Número 5 – Enero/Junio 2018

REVISTA
Europa del Este Unida

ISSN 0719-7284

Portada: Felipe Maximiliano Estay Guerrero

UNIVERSIDAD SUROESTE "NEOFIT RILSKI" - BULGARIA

221 B WEB SCIENCES - CHILE



221 B
WEB SCIENCES

CUERPO DIRECTIVO

Directora

Ph. D. Elenora Pencheva

Universidad Suroeste Neofit Rilski, Bulgaria

Subdirector

Ph. D. Aleksandar Ivanov Katrandhiev

Universidad Suroeste Neofit Rilski, Bulgaria

Editor

Drdo. Juan Guillermo Estay Sepúlveda

Universidad de Los Lagos, Chile

Editora Adjunta

Lic. Carolina Cabezas Cáceres

Universidad de Los Andes, Chile

Relaciones Internacionales

Ph. D. Nicolay Popov

Universidad Suroeste Neofit Rilski, Bulgaria

Dr. Carlos Tulio da Silva Medeiros

Diálogos en Mercosur, Brasil

Cuerpo Asistente

Traductora: Inglés

Lic. Pauline Corthon Escudero

Editorial Cuadernos de Sofía, Chile

Traductora: Portugués

Lic. Elaine Cristina Pereira Menegón

Editorial Cuadernos de Sofía, Chile

COMITÉ EDITORIAL

Mg. Zornitsa Angelova

Rotterdam School of Management Erasmus University, Netherlands

Mg. Konstantina Vladimirova Angelova

*Universidad Suroeste Neofit Rilski, Bulgaria
University of Amsterdam, Netherlands*

Dr. Miguel Ángel Asensio Sánchez

Universidad de Málaga, España

Mg. Rumyana Atanasova Popova

Universidad Suroeste Neofit Rilski, Bulgaria

MSc. Julio E. Crespo

Universidad de Los Lagos, Chile

Ph. D. Guillermo A. Johnson

Universidade Federal da Grande Dourados, Brasil

Ph. D. Venko Kanev

*Universidad Sorbonne Nouvelle, Francia
Universidad "St. Kliment Ohridski" Sofia, Bulgaria*

Prof. Emérito de l'Université de Rouen Normandie, Francia

Ph. D. Lyubov Kirilova Ivanova

Universidad Suroeste Neofit Rilski, Bulgaria

Ph. D. Diana Veleva Ivanova

Universidad Suroeste Neofit Rilski, Bulgaria

Ph. D. Zlatka Gerginova

Universidad Suroeste Neofit Rilski, Bulgaria

Ph. D. © Mariya Kasapova

Universidad Suroeste Neofit Rilski, Bulgaria



221 B
WEB SCIENCES

Ph. D. Petar Parvanov

Universidad Suroeste Neofit Rilski, Bulgaria

Ph. D. Todor S. Simeonov

*Sofia University "St. Kliment Ohridski",
Bulgaria*

Ph. D. Alexander Sivilov

*Sofia University "St. Kliment Ohridski",
Bulgaria*

Ph. D. Valentin Spasov Kitanov

Universidad Suroeste Neofit Rilski, Bulgaria

Mg. Konstantina Vladimirova Angelova

Universidad Suroeste Neofit Rilski, Bulgaria

COMITÉ CIENTÍFICO INTERNACIONAL

Ph. D. Slavyanka Angelova

Universidad Suroeste Neofit Rilski, Bulgaria

Dr. Georgi Apostolov

Universidad Suroeste Neofit Rilski, Bulgaria

Dr. Luiz Alberto David Araujo

*Pontificia Universidad Católica de Sao Paulo,
Brasil*

Ph. D. Gabriela Belova

Universidad Suroeste Neofit Rilski, Bulgaria

Dra. Patricia Brogna

*Universidad Nacional Autónoma de México,
México*

Dr. Eugenio Bustos Ruz

Asociación de Archiveros, Chile

Dra. Isabel Caballero Caballero

Universidad de Valladolid, España

Dr. Reinaldo Castro Cisneros

Universidad de Oriente, Cuba

Dr. Juan R. Coca

Universidad de Valladolid, España

Dr. Martino Contu

Università degli Studi di Sassari, Italia

Dr. Rodolfo Cruz Vadillo

*Universidad Popular Autónoma del Estado de
Puebla, México*

Dr. Carlos Tulio da Silva Medeiros

Instituto Federal Sul-rio-grandense, Brasil

Dr. Eric de Léséleuc

INS HEA, Francia

Lic. Paula Donati

Universidad de Buenos Aires, Argentina

Dra. Manuela Garau

Università degli Studi di Cagliari, Italia

Ph. D.. Gergana Georgieva

Universidad Suroeste Neofit Rilski, Bulgaria

Dr. José Manuel González Freire

Universidad de Colima, México

Ph. D. Nicolay Marín

Universidad Suroeste Neofit Rilski, Bulgaria

Dr. Martial Meziani

INS HEA, Francia

Mg. Ignacio Morales Barckhahn

Universidad Adolfo Ibáñez, Chile

Mg. Matías Morán Bravo

*Sociedad Chilena de Medicina del Deporte,
Chile*

Mg. Marcos Parada Ulloa

Universidad Adventista de Chile, Chile



221 B
WEB SCIENCES

Dra. Anabel Paramá Díaz
Universidad de Valladolid, España

Mg. Héctor Salazar Cayuleo
Universidad Adventista de Chile, Chile

Mg. Claudia Peña Testa
Universidad Nacional Autónoma de México, México

Dr. Germán Santana Pérez
Universidad de Las Palmas de la Gran Canaria, España
Centro de Estudios Canarias América
Universidad de Hunter, Estados Unidos

Dra. Francesca Randazzo
Universidad Nacional Autónoma de Honduras, Honduras

Dr. Stefano Santasilia
Universidad de La Calabria, Italia

Dr. Gino Ríos Patio
Universidad de San Martín de Porres, Perú

Dr. Juan Antonio Seda
Universidad de Buenos Aires, Argentina

Dr. José Manuel Rodríguez Acevedo
Universidad de La Laguna Tenerife, España

Dra. Begoña Torres Gallardo
Universidad d Barcelona, España

Dr. Carlos Manuel Rodríguez Arrechavaleta
Universidad Iberoamericana Ciudad de México, México

Dr. Rolando Zamora Castro
Universidad d Oriente, Cuba

Dra. Vivian Romeu
Universidad Iberoamericana Ciudad de México, México

Dra. Blanca Estela Zardel Jacobo
Universidad Nacional Autónoma de México, México

Dra. Maja Zawierzeniec
Universidad de Varsovia, Polonia



221 B
WEB SCIENCES

Indización

Revista Europa del Este Unida, se encuentra indizada en:





221 B
WEB SCIENCES

ISSN 0719-7284 – Publicación Semestral / Número 5 / Enero – Junio 2018 pp. 21-26

**ESSENCE AND IMPORTANCE OF INTERNATIONAL JUDICIAL EXPERTISE
IN THE INVESTIGATION OF THE TRANSNATIONAL ORGANIZED CRIME**

**ESENCIA Y SIGNIFICADO DE LA EXPERIENCIA JUDICIAL INTERNACIONAL
EN UNA INVESTIGACIÓN DEL CRIMEN ORGANIZADO TRANSNACIONAL**

Ph. D. © Michaela Georgieva Klecherova
South-West University "Neofit Rilski", Bulgaria
mihaela_klecherova@abv.bg

Fecha de Recepción: 21 de febrero de 2018 – **Fecha de Aceptación:** 28 de marzo de 2018

Abstract

The following article aims to highlight the role of international judicial expertise in investigating and proving cross-border crime. An attempt has been made to highlight the main advantages of this modern instrument of proving crimes related to transnational organized crime. The essence and importance of international expertise is also specified, as well as the possibilities it provides for the Bulgarian investigative authorities.

Keywords

Transnational organized crime – International expertise – Investigation

Resumen

Este artículo tiene como objetivo resaltar el papel de experiencia judicial internacional en la investigación y prueba de crimen transfronterizo. Se hizo un intento para delinear sus causas y se resumió las principales ventajas de este instrumento moderno para probar los crímenes relacionado con el crimen organizado transnacional. Estos están indicados bajo su esencia y significado a través de expertos internacionales, así como las posibilidades que proporciona ella en el Órganos de investigación búlgaros.

Palabras Claves

Crimen Organizado Transnacional – Experiencia internacional – investigación

In the investigation and proving of crimes by transnational organized crime, the use of special means and knowledge¹ in the activities of investigative authorities' is essential². The significant increase in international crime and the cross-border nature of crimes by OC groups require intensification and expansion of the work and cooperation of international organizations, particularly with regard to international terrorism, human trafficking, arms and drugs and other crimes of a transnational nature. One of the directions in which such international cooperation is taking place between the specialized institutions is in the field of forensic science and judicial expertise.

In recent years, the use and application of special knowledge and high-tech methods for collecting and researching various evidence from international investigators in international affairs has become increasingly relevant and significant. In this respect, the admission, appointment and preparation of international judicial expertise in cases involving transnational organized crime, especially in the case of cybercrime, theft of cultural and artistic works, electronic money crime, etc., have been applied by the investigative authorities noticeably more often.

International expertise may only be appointed in cases where there are bilateral or multilateral legal assistance agreements between the parties requesting or carrying out such expertise. After the full membership of Bulgaria in the European Union, there are no formal obstacles to such an expertise in Bulgaria or in any other country in the union. International expertise is appointed when a crime or incident is committed by or against citizens from one country of the territory to another country, in the case of international offenses. The most common cases are transnational and organized offenses when perpetrators are unknown, often wanted by Interpol or Europol and identified through third party information. This Party may provide the identification data to the competent authorities of the Party concerned or carry out its expertise on its territory under the terms and conditions of the international legal assistance.

Another possibility for carrying out international expertise is when in the country where the crime is committed there is no methodology and equipment for expert examination of the objects presented. In such cases, assistance may be requested from a country that has such a methodology and technical means for the specific type of research.

In investigating cross-border crimes, Bulgarian investigative authorities most often cooperate with the two main police organizations - Interpol³ and Europol⁴.

The Interpol International Organization has set up several structures to perform functions related to the coordination of counter-organized crime activities and the conduct of expert studies aimed at assisting the states – members of the organization. The

¹ This knowledge is widely used in various expertise and research by experts with high professional background and experience in various fields of science, technology and art.

² Вж. К. Бобев, Криминалистика, Университетско издателство „Св. Климент Охридски“, С., 2009, с. 10.

³ The main strands of Interpol's activities are the fight against drug crime, organized crime, high technology crime, terrorism, corruption and others.

⁴ The establishment of Europol in the EU in 1992 required the Mol to set up a second team of staff to coordinate the work of the security and public order forces on preventing, intercepting and detecting international crimes and illegal migration within the EU.

specialists⁵ from these structural units are ready to immediately go to emergency incidents, react in the fastest way to the situation and carry out the necessary actions aimed at analyzing the collected evidence. A specialized group called "Dactyloscopic Identification"⁶ has been established in Interpol's governing structures. The objectives of this group are to standardize the European standards for dactyloscopic identification of individuals who have left fingerprints or non-identity fingerprints. In this regard, preparing international expertise in this field helps to investigate and prove cross-border crimes for the identification of OCG members.

In the investigation of crimes related to transnational organized crime, investigative authorities often use the special knowledge and skills of Interpol specialists on genotypic identification. In this regard, in 2010, the "Manual of Mobile Labs for DNA Identification in Investigating International Crimes"⁷ was endorsed. In this way, the method of gene identification of victims of terrorism and other serious cross-border crimes⁸ is unified and harmonized. Interpol also has many other experts in the area of computer crime, handwriting and technical research, forensic expertise, and others. All this special knowledge is essential in the appointment of international expertise in the investigation of cross-border crimes⁹.

The European Police Office, Europol, also plays an important role in the international cooperation of the investigative bodies in the field of international expertise. The main task of this body is to coordinate the national specialized services in the fight against organized crime and to provide operational data on persons and criminal links of the OCG. The most important areas in which Europol works are the fight against terrorism, illicit trafficking of human beings, arms and drugs, financial crime and money laundering. Various groups of specialists are formed in the organization for the preparation of international expertise:

- a specialized dactyloscopic fingerprint verification group;
- a group to coordinate the activities of the competent authorities in the investigation of crimes related to the production and distribution of counterfeit pan-European currency;
- Expert Group on Illicit Drug Trafficking;

⁵ Some of these forensic experts are also involved as expert witnesses in court cases in the ECHR case in Strasbourg.

⁶ Interpol European Expert Group on Fingerprint Identification - created in May 1997 at the suggestion of expert criminologists who participated in the 26th Regional Conference in Slovakia.

⁷ A report of the British Police Laboratory (FSS) in Birmingham, the world's leading developer and application of state-of-the-art DNA identification technologies for criminals, has been ranked fifth in Europe. With the quality of work and the capabilities of the equipment used, the Bulgarian Laboratory is an equal partner of the FBI, Scotland Yard, Interpol, Europol and other police structures and organizations

⁸ Specialists from 50 countries have signed a cooperation agreement that specifies communication practices for the efficient use of 100,000 DNA profiles in the Central database in Lyon, France.

⁹ Specific practical assistance from Interpol was given in 2002 to Indonesia after a series of heavy terror attacks on Bali. Morocco, Egypt and Spain have also been aided in committing terrorist acts. As a remarkable result from the use of international experts - experts, the work of expert witnesses is taken into account a computer expertise to establish the headquarters of the Colombian Revolutionary Armed Forces (FARC), deployed in the southern part of the country, where special training for special terrorist activities, illegal drug trafficking, and other.

- Group on Countering International Terrorism and Related Financial Crime¹⁰.

Europol staff is provided with expert positions for the performance of judicial expertise in the field of information technology. The knowledge of these specialists is crucial to the discovery of the growing international cybercrime.

In Bulgaria for the implementation of international procurement of the two organizations are used the technical capacities and the specialists of the Institute of the Ministry of Interior - the Scientific Research Institute of Criminology and Criminology (NIKK), the Institute of Psychology (II) and other specialized units.

The International Expertise Organization in the Republic of Bulgaria has been assigned to the International Legal Cooperation Department at the Supreme Cassation Prosecutor's Office. This department is principally engaged in receiving and submitting legal aid applications under the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union of 29 May 2000 concerning complex cases or a request addressed to more than one competent authority and receiving and submitting requests for legal assistance under the Convention relating to complex cases or an application addressed to more than one competent authority.

Under International Agreements, the Department for International Legal Cooperation prepares documentation, provides financial means and transportation, conducts correspondence and periodically informs the parties about the interim and final results of expert studies.

International judicial expertise is carried out after its appointment and the preparation of all documentation by the Department for International Legal Cooperation. It is prepared by our and foreign experts and experts from another country in pending criminal proceedings in Bulgaria. It differs from the ordinary expertise in the Bulgarian Criminal Procedure Code on three specifics:

1) The order for its appointment is different - for its preparation, as already mentioned, it is necessary to cooperate with the Department of International Legal Cooperation at the Supreme Cassation Prosecutor's Office.

2) It is assigned to experts from more than one country, respectively Bulgarian and foreign experts with the relevant procedural precondition – the main thing is the need to clarify the relevant circumstances of the case with the help of special knowledge, used by experts from another country with a general and private methodology applied in other countries with greater experience. Appointment of international expertise is also required when the practical possibilities in our country have been exhausted for further examination due to the limited number of expert bodies and experts with regard to the clarifying circumstances of the case and the doubts regarding these circumstances have remained unserviceable.

3) It is usually done as a collective expertise. It is most often repeated or parallel and sometimes it is basic or additional.

Depending on the nature of the specific knowledge, the subject and tasks can be assigned to examine documents, traces, etc., which in turn depends on the type of cross-border crime.

¹⁰ К. Бобев, Криминалистически експертизи, С., 1986, с. 50.

Given the fact that international expertise is based on the international nature of special knowledge and the general and private methodology by means of which this knowledge is used, the practical implementation of this expertise is faced with particular difficulties or unforeseen problems to solve. Complications that may occur are of an organizational nature.

First of all, complications may arise in connection with the appointment of international expertise. This is the most difficult matter to solve by the investigating authorities. If the expertise is assigned in breach of procedural requirements, the expert's conclusion will not be applicable to the case. The issue of appointment has no clear regulation in Bulgarian law. Investigating authorities should, in each case, comply with the legal aid contract they use. It contains rules to establish the appropriate links between the parties, the volume of legal aid and the way to implement them.

Next, the investigating authorities can use the existing legal framework directly to address the question of whether and how to appoint an international judicial expertise after considering the following circumstances:

- 1) the procedural law of the country concerned contains adequate legal framework;
- 2) there is a treaty on legal aid between the parties that contains clauses for the appointment of such expertise;
- 3) there are expert agencies to carry out the required expertise.

We can therefore conclude that investigative bodies have the procedural capacity to use international forensic expertise as a modern tool for proving transnational organized crime crimes under our procedural law and when the requirements it provides are also contained in procedural law of the other country. However, the legal aid contract is a prerequisite for appointment in all cases.

The use of international judicial expertise in the investigation of cross-border and organized crime can in many cases end the doubts and hesitations that have arisen in the course of criminal proceedings and help to prove the prosecution's indictment. International co-operation in the field of judicial expertise creates lasting prerequisites and conditions for the efficient and full use of special knowledge in the work of investigative and judicial authorities and international expertise is therefore an interesting way of assisting investigative bodies in the fight against international organized crime and terrorism.

References

Конвенцията за взаимопомощ по наказателно-правни въпроси между държавите-членки на Европейския съюз от 29 май 2000 г.

Konvenziata za vzaimopomosht po nakazatelno-pravni vaprosi mezhdudarzhavite-chlenki na Evropejskia sayus ot 29 may 2000 g.

K. Бобев, Криминалистически експертизи, С. 1986.

K. Bobev, Kriminalisticheski ekspertizi, S. 1986.

К. Бобев, Криминалистика, Университетско издателство „Св. Климент Охридски“, С. 2009.

K. Bobev, Kriminalistika, Universitetsko izdatelstvo “Sv. Kliment Ohridski”, S. 2009.

Para Citar este Artículo:

Klecherova, Michaela Georgieva. Essence and importance of international judicial expertise in the investigation of the transnational organized crime. Rev. Europa del Este Unida. Num. 5. Enero-Junio (2018), ISSN 0719-7284, pp. 21-26.

Las opiniones, análisis y conclusiones del autor son de su responsabilidad y no necesariamente reflejan el pensamiento de la **Revista Europa del Este Unida**.

La reproducción parcial y/o total de este artículo debe hacerse con permiso de **Revista Europa del Este Unida**.