

A BEACON OF HOPE AMONG “THE UNFRIENDLY”

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Introduction. In June 2025, Russia hosted a high-level premiere Seminar on depoliticized cooperation in criminal matters for BRICS member states and partner countries. The article is based on the author's report and its discussion and other key deliverables of the seminar as well as takes stock of available solutions to overcome the current unacceptable state of affairs in this field.

Materials and methods. The article explores relevant international treaties, domestic laws and regulations, and draft legislation. It is also sourced from case law of international courts, national and foreign jurisprudence, legal practices of interstate, domestic and foreign law enforcement and judicial authorities, as well as scholarly literature. The applied methodology includes the formal legal and comparative methods, methods of systemic and structural analysis, and synthesis of social and legal phenomena.

Results of the study. The impact of global politics on international cooperation between judicial, police and other law enforcement authorities and financial intelligence units is a matter of fact. However, the domestic legislation on “unfriendly states” per se does not concern the area of interstate cooperation in criminal matters. The question is whether that impact is reasonable and/or lawful under international law. Currently, on the subject's major points we have to answer in the negative, since the refusals of mutual assistance mostly run counter to the refusing countries' binding international legal obligations, violating the *pacta sunt servanda* principle, and in many cases are against common sense. The article breaks down these political denials into categories and then analyzes each of them. They are (infrequent) direct political refusals of assistance, those camouflaged under the human rights cover blaming Russia for not being party to the European Convention on Human Rights and the European Court of Human Rights anymore, as well as the phenomenon of “ghosting”. Switzerland's destructive approach of a “judicial smoke screen” and the selective one by the United States and Canada stand out from the pack. The total damaging effect for various areas of life, assessed in the publication, is hard to overestimate.

Discussion and conclusion. The paper takes stock of the prospects and all available solutions, such as exercising reciprocity, various peaceful means of settlement of disputes, submission of the dispute to the International Court of Justice, discusses

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its case law on the subject of judicial assistance, as well as evaluates the feasibility of each option. It offers insights into relevant domestic legislative initiatives worked out by the Prosecutor General's Office and aimed at enhancing the application of the principle "aut dedere aut judicare", blocking foreign and international extraterritorial operations to gather evidence and intelligence on Russian soil, including electronic evidence in cyberspace, and in parallel strengthening Russia's own use of extraterritorial mechanisms within what is permissible under international law, among others, within the framework of the new UN Convention against Cybercrime and improving the use of consular legal assistance by videoconferencing. At the same time, the Russian principal central authority for legal assistance in criminal matters opposes any dismantling of the existing treaty base, termination or suspension of the operation of bilateral and multilateral anti-crime and counter-terrorism treaties, including the Council of Europe conventions.

Introduction

A trailblazing discourse

In June 2025, Russia's capital hosted the high-level premiere BRICS seminar on depoliticized cooperation in criminal matters [5]¹. The two-day event was held in a hybrid format by the Ministry of Foreign Affairs at the Moscow World Trade Center, co-sponsored by some other public stakeholders and presided by Ambassador-at-Large, Special Presidential Envoy on International Criminal Legal Cooperation H.E. Ilya Rogachev and Chairman of the Association of Lawyers of Russia Sergey Stepashin².

The present article is based on a keynote presentation delivered by the author at the forum's first session of June 24 titled "Countering the politicization of international cooperation in criminal matters. Legal assistance requests" and its discussion by the participants.

The participants of the second session "Politicization of anti-criminal organizations", representatives of the leadership of the NCB of INTERPOL of the Ministry of Internal Affairs (Tatyana Shishova) and Russian Financial Intelligence Unit Rosfinmonitoring (Boris Toropov)

shared their perspectives within their agencies' competence related to international cooperation in criminal matters and the foundations of neutrality of INTERPOL, FATF and the Egmont Group, now being adversely affected by foreign, supranational and international politics, which perspectives largely coincide with those in the judicial sector in many respects.

It is also worth mentioning at this point that both EU supranational anti-crime bodies, the European Union Agency for Criminal Justice Cooperation (Eurojust) and European Union Agency for Law Enforcement Cooperation (Europol), generating and leveraging in cahoots multiple packages of anti-Russian initiatives,³ contributing to the biased narratives, equally run the risk of getting discredited and delegitimized like the International Criminal Court due to their unconcealed and unrestrained implication and taking sides in global politics, and the concomitant loss of professional neutrality and credibility.

Other sessions' topics were dedicated to the International Criminal Court and its instrumentalization for political gain in global affairs, and protection of immunities of state officials from foreign and international criminal jurisdiction.

¹ To some extent, its only precursor was a special session of the International Military-Technical Forum "Army-2022" held in Russia in August 2022.

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² On the Seminar on depoliticized cooperation in criminal matters with the participation of representatives of BRICS Member States, a press release of the RF MFA, June 27, 2025. Available at: https://mid.ru/ru/foreign_policy/news/2032869/ (accessed: 04.07.2025).

³ See in more detail on all relevant projects: Eurojust and the war in Ukraine. Available at: <https://www.eurojust.europa.eu/eurojust-and-the-war-in-ukraine> (accessed: 07.07.2025); Europol's solidarity with Ukraine. Available at: <https://www.europol.europa.eu/europol-solidarity-ukraine> (accessed: 07.07.2025).

The host party was represented by the staffs of the Ministry of Foreign Affairs (its Legal Department and Department of New Challenges and Threats), Prosecutor General's Office, Presidential Executive Office, Ministry of Internal Affairs, Federal Financial Monitoring Service, Ministry of Justice, Investigative Committee, Foreign Intelligence Service, as well as the academic community (MGIMO University, Diplomatic Academy and HSE University). The seminar was attended in-person and online by representative delegations of our distinguished foreign counterparts from BRICS member states and partner countries – their high-ranking diplomats, officers of judicial and law enforcement bodies and academia, who shared their first hand and hands-on experiences and knowledge and exchanged views with one another. The foreign and international contributors and other attendees aligned themselves with all major standpoints expressed by the hosts during the discussion of the said subject matters.

The event was positively overdue by all estimates as our country has had two milestones of relevance in the meantime, in 2014 and 2022, 11 and 3 years ago respectively.

Under international treaties and domestic law, the Prosecutor General's Office is Russia's main central authority for legal assistance and legal relations in criminal matters, being the principal stakeholder on the front line of what the seminar was focused on.

To give the readership a brief idea of the subject: the definition "international legal or judicial assistance" is used in its narrow and broad senses, to denote requests for gathering specific evidence for a case overseas, on the one hand, and on the other hand, in addition to this, a number of other mechanisms such as extradition, transfer of criminal proceedings or sentenced persons, to name just the key ones. This publication elaborates on the broad legal assistance, except for the transfer of sentenced persons, which along with some other types of assistance in criminal and civil matters, lies within the purview of the Ministry of Justice.

The procedure of mutual legal (judicial) assistance in the field of criminal justice is aimed at obtaining admissible evidence in the case, while international law enforcement (police-

to-police) assistance pursues the obtaining of criminal intelligence.

While giving the readership some high-profile examples and dropping some names here and there, the rules of secrecy of criminal investigations and treaty-based confidentiality of incoming legal assistance requests prevent us from delving into concrete criminal case files.

Last but not least, normally our professional ethics also precludes us from engaging in naming and shaming counterparts but as is known currently we all have to live in the new normal and it is fully justified to use this tribune, not only to vent our concerns and frustration about wrongdoings of others and resulting problems for the world community but to suggest and seek tangible solutions to them down the road in the first place as well.

Study

Impact of politics on judicial and law enforcement cooperation

Surely, we do not live in some judicial and law enforcement bubble or in a parallel reality nor engage in wishful thinking, since it is common knowledge that both domestic and international law and legal practices are inseparable from politics and policies, domestic and international respectively, and are shaped and affected by them within the multipolar architecture of the modern world order, including the bloc of so-called "unfriendly" states. All the more so in an epoch where solid binding norms of international law are often supplanted by the obscure "rules-based international order".

There is no point in debating this common knowledge. Like it or not, it is just a matter of fact. The question that actually engages us now is what the commands of common sense and international law are and consequently, where one draws the boundary between what is reasonable and unreasonable, lawful and unlawful, permissible conduct or the one reaching the threshold of an internationally wrongful act violating the *pacta sunt servanda* principle.

Since 2023, on multiple occasions, the Russian President Vladimir Putin⁴ and Foreign Minister Sergey Lavrov⁵ have been adamantly pointing out the inaccuracy of the term "un-

⁴ A meeting with young employees of atomic industrial enterprises, 22 August 2025; A meeting with culture workers of the Tver region, 27 March 2024; A meeting with the participants of the World Festival of Youth, 6 March 2024; The plenary meeting of the convention of the Russian Union of Industrialists and Entrepreneurs, 16 March 2023. Available at: <http://www.kremlin.ru/> (accessed: 16.09.2025).

⁵ Remarks and answers to questions by Foreign Minister Sergey Lavrov during a meeting with students and faculty at MGIMO, Moscow, September 8, 2025; Foreign Minister Sergey Lavrov's remarks and answers to media questions

friendly states", insisting that there is no such thing as unfriendly countries or unfriendly peoples for Russia but there are unfriendly ruling elites or unfriendly governments in some countries instead. In 2025, Sergey Lavrov declared that Russia was "gradually moving away from the term "unfriendly countries," though it remains in our legislation";⁶ thus the term itself being rather a misnomer clipping designating states that currently commit unfriendly acts against our country, its natural and legal persons [3].

The Russian legislation on "unfriendly states" in and of itself does not concern the area of international cooperation in criminal matters, however "strange bedfellows" these states might seem, nor are generally applicable to it international legal institutions of retorsions or reprisals or other countermeasures, nor are this area in general and effective treaty obligations therein *per se* impacted by a severance of diplomatic relations or even an armed conflict between the contracting states parties [3].

It should be underscored that we talk here almost exclusively about so-called ordinary-law crimes, including terrorism, rather than war crimes, crimes against humanity, genocide, and these and others involving international legal immunities of officials from foreign criminal jurisdiction, or proceedings by bodies of international criminal justice, and they are more prone to having a political background than ordinary criminality is.

This year our country concluded bilateral interstate agreements with Belarus, Myanmar and Nicaragua, to be followed by others, on mutual protection of citizens from abuses in the field of both international and foreign justice and respective protocols on their execution.

Political refusals of assistance

As express grounds for refusal of a political character the treaties normally set out a standard set of risks of prejudice to sovereignty, national security, ordre public or other essential interests of the requested country, of politically motivated persecution or prosecution for so-called political offences and those associated with them. Actually, our opponents very rarely make use of them in their own right without

linking them somehow to the subject of possible violation of human rights. The exceptions are refusals by Latvia and some others to grant judicial assistance in criminal cases on evasion of taxes or customs payments, where as a ground they explicitly point to their denial "to fuel Russia's war machine" with this money. It should be mentioned here that in turn, Russia also refuses, for understandable political reasons too, to render legal assistance to Latvia pursuant to its requests concerning interdicted exports or imports of "sanctions" listed goods.

And then, secondly, there are many countries' refusals to execute whatever requests emanating from Russia's new regions, however grave the crimes committed on their soil are. The latter is also true for the INTERPOL's refusals, to which come the ones denying to Russia any support in tracking down mercenaries, who invaded the Russian regions.

It clearly translates into the discriminatory and deliberate denial of access to justice to victims in breach of human rights covenants, and granting of safe conduct to perpetrators of even the most heinous crimes.

Exclusively political reasons underpinned the refusals to cooperate with our country in such cases as the poisoning of Alexei Navalny (6 requests declined by France, Germany and Sweden) and the international terrorist acts against the Nord Stream gas pipelines (13 legal assistance requests rejected, on the part of Denmark, Germany, Norway, Sweden and Switzerland). We regard those refusals as intentionally creating obstacles to preclude us from seeking and establishing the truth in the internationally high-profile cases and to obstruct justice.

Human rights cover

However, the opponent countries prefer to couch their refusals, disguising their true underlying purely political motives, in a human rights language, them masquerading as vague, unsubstantiated and unspecified potential prejudice to the defendants' rights, above all invoking the allegedly inappropriate custodial conditions if extradited to our country and presumed unreliability of its assurances to the contrary, since it is not party to the European Convention on Human Rights and the European Court

during a news conference on the performance of Russian diplomacy in 2024, 14 January 2025; Foreign Minister Sergey Lavrov's statement and answers to media questions following the 30th OSCE Ministerial Council Meeting, Skopje, December 1, 2023. Available at: <https://mid.ru/en/> (accessed: 16.09.2025).

⁶ Foreign Minister Sergey Lavrov's statement and answers to media questions at a news conference on Intervention International Music Contest, Moscow, September 16, 2025. Available at: <https://mid.ru/en/> (accessed: 16.09.2025).

of Human Rights anymore. By this shoehorn and camouflage technique, lacking any factual foundation, they disregard their express obligations under extradition treaties, Russia's official assurances to fully observe those rights and provide an unrestricted access of the requested states' consular officers and diplomatic agents to the extradited defendants in custody, irrespective of their nationality, in order to prove those assurances, as well as the fact that Russia continues to be party to all relevant universal (UN) human rights covenants, bodies and control mechanisms.

As a result, these countries become safe havens to numerous criminals, endangering their own populations. Those of them who manage to retain their ill-gotten gains there, benefit twice as much from this scenario.

However, it is necessary to mention here that quite a few EU countries, especially Austria, when refusing to extradite on the said grounds, at the same time institute their own criminal proceedings against the culprits wanted by Russia under the principle "either extradite or prosecute". For instance, over the years, Austrian courts have been convicting to custodial sentences the terrorists who committed crimes in Russia and fled abroad and whom Austria refused to extradite to Russia.

For this purpose, a draft federal law under consideration by the State Duma of the Federal Assembly of the Russian Federation extends the application of transfer of prosecution abroad, where fugitives from Russian justice fled or relocated, to secure the inevitability of punishment for them⁷.

One country (Estonia) once refused to execute a request due to our country presumably not complying with a EU data protection adequacy decision, which does not hold water of course.

Totally, over the course of three years, we received 152 refusals to extradite, as well as 64 ones to render legal assistance based on the described explicit and implicit political reasons.

Ghosting

The third scenario of refusals of assistance is, paradoxically as it may sound, the absence of such refusals because of ghosting (unilateral disconnection without giving reasons), or else

they can be regarded as implied refusals that are politically motivated by default, and such "silent" refusals hugely outnumber those that have been formally and explicitly communicated to us.

The fact is that since 2022 a number of countries had completely cut off the lines of communication and went missing almost overnight in a more or less synchronized way, going off the radar in terms of anti-crime judicial cooperation with Russia, both in respect of incoming and outgoing requests. And they aggressively persevere in their being off that radar ever since. The same holds true for European law enforcement and judicial liaison officers stationed at their countries' embassies in Moscow.

For the last three years, any reaction to our outgoing legal assistance requests to Australia, Belgium, British Virgin Islands, Estonia, France, Georgia, the Netherlands, Poland, Ukraine and the United Kingdom is outstanding, they have not vouchsafed any reply and have gone ghost.

This can be regarded as the most disdainful and outrageous form of breaching the treaties in force.

However, as they say, "there is honor among thieves". Indeed, those who refuse to assist us or who have just disappeared as described, do not show up to ask us to assist them either, allegedly regarding evidence emanating from Russia as some kind of "fruits of the poisonous tree", tainted and not deserving being used to combat ordinary crime at home.

This definitely comes at a price and backfires and has serious social repercussions in their homes because by this, they cut off their nose to spite their face, as there's no way to parlay this misfortune into a win for somebody or something good, flatly denying protection and access to justice to their ordinary man in the street, their own nationals who have fallen victim to crime, which leads to their revictimization and criminals' impunity.

Of course, the victims in these countries can lodge their respective complaints with the European Court of Human Rights.

Such orchestrated "method to madness" of the vanished counterparts can be traced back among others to a meeting of the EU Justice and Home Affairs Council of 4 March 2022, where it was agreed in the context of the situ-

⁷ Draft Federal Law No. 838583-8 "On introduction of amendments to article 458 of the Criminal Procedure Code of the Russian Federation (on the specification of the procedure for transmittal of criminal case files to the Prosecutor General's Office of the Russian Federation for making a decision on their transfer to the competent authorities of a foreign state to carry out criminal prosecution)", Explanatory note thereto.

ation in Ukraine that Russia's actions "justified the choice broadly made by several member states, without prejudice to an examination on a case-by-case basis, not to process the requests for cooperation in criminal matters submitted by Russia and Belarus"⁸.

One can imagine the pent-up pressure in the ghosters' crammed Pandora's box of the backlogged and outstanding anti-crime cooperation issues in pending cases, destined to explode some time, to their own detriment and that of others around.

Positive developments within the EU

However, afterwards the collective West turned out to be not so much collective as most EU member states failed to toe this uniform line, backtracked on their "commitments" and pursued the cooperation with Russia to a various extent.

We note ongoing overall productive relations with Austria, Bulgaria, Cyprus, the Czech Republic, Greece, Hungary, Latvia (especially in money laundering cases; the country's positive and negative dichotomy is mentioned elsewhere in this paper), Slovakia and Spain.

As one can see, the aggregate picture even within the presumably politically "hostile" EU is not black-and-white, good or evil at all but rather considerably nuanced, and we have to deal with an evolving landscape.

Switzerland's judicial fig leaf

To date, Switzerland as a sole country stands out as a combination of the enumerated scenarios by having formally declared a comprehensive suspension of all legal assistance relations with Russia based on a certain judicial smoke screen of decency and legality. In 2022, its Federal Criminal Court rendered a set of precedent decisions refusing judicial assistance to Russia in the cases of ordinary crimes, claiming that Russia's actions with respect to Ukraine, its withdrawal from the Council of Europe and the European Convention on Human Rights caused Switzerland to question the trust

in Russia's ability to abide by its international legal commitments, in particular in the area of human rights, even if Russian requests were accompanied by the respective diplomatic assurances⁹.

However, this "bulk and advance blocking" approach wrapped in a semblance of domestic legality has nothing to do with lawfulness under international law, in particular the 1969 Vienna Convention on the Law of Treaties. While a treaty between the state parties remains in force and its operation has not been terminated or suspended, among others as a consequence of its breach, it is not compatible with the binding treaty obligations that require each individual request to be assessed on a case-by-case basis on its own merits, including whether it could be harmful to the requested state's national security or other interests.

Nor has that approach anything to do with decency or comity. Instead, here we have a striking example of a partner that used to be looked up to as a role model in terms of their civility, neutrality and highly-developed legal culture and that downgraded their conduct and image of their own free will to what can be perceived as the behavior of a rulebreaking rogue jumping on the political bandwagon.

The United States and Canada

The United States and Canada also stand out from the pack, since they have been keeping the lines of communication open all the time, however, having a track record of being very selective and unforthcoming in rendering assistance. All US refusals in cases of cyber extremism referenced the First Amendment to the US Constitution on the freedom of speech as their ground. Paradoxically, while also claiming the championship in the fight against cybercrime and child abuse, the United States, where major ICT-service providers are concentrated, tends not to respond at all to Russian requests in criminal cases of sextortion of minors, online child sexual exploitation and abuse (mostly self-generated child sexual abuse material) dur-

⁸ Justice and Home Affairs Council, 3-4 March 2022. Main results. Justice (Friday 4 March). Situation in Ukraine. Available at: <https://www.consilium.europa.eu/en/meetings/jha/2022/03/03-04/> (accessed: 23.03.2022); Bruppacher B. Die Schweiz setzt Rechtshilfe an Russland aus [Switzerland suspends legal assistance to Russia]. Neue Zürcher Zeitung. 2022. 22 Mar.

⁹ Bundesstrafgericht, Geschäftsnummer: RR.2021.239+RR.2021.246, Entscheid vom 17. Mai 2022, Beschwerdekammer; Bundesstrafgericht, Geschäftsnummer: RR.2021.91, Entscheid vom 13. Mai 2022, Beschwerdekammer; Bundesstrafgericht, Geschäftsnummer: RR.2021.84, Entscheid vom 13. Mai 2022, Beschwerdekammer; Medienmitteilung des Bundesgerichts vom 22. Februar 2023. Urteil vom 30. Januar 2023 (1C_477/2022). Rechtshilfeersuchen Russlands: Vorsorgliche Sperrung von Bankguthaben bleibt aufrecht erhalten. Available at: <https://www.bger.ch/de/index.htm> (accessed: 30.03.2024).

ing several years, while such requests constitute the majority of all those forwarded to the US. To date, a total of 211 requests to the US, of which 160 in cases of cybercrime, remain unexecuted.

Dismantling the treaty base

Only four, the most desperate, countries (Baltic states Estonia, Latvia and Lithuania as well as Ukraine) made unreasonable decisions to dismantle their legal assistance treaty base with Russia, denouncing our bilateral treaties (the Baltic states) and the CIS-Convention (Ukraine) on legal assistance and legal relations in civil, family and criminal matters, which as such, apart from the language requirements, produced little effect as regards criminal matters, since our states continue to be parties to multilateral regional (CE) and UN conventions in this field and to carry their obligations under them.

Under Federal Law No. 101-FZ of 15 July 1995 "On International Treaties of the Russian Federation" (articles 8, 32, 33 and 35), the Ministry of Foreign Affairs carries out a general oversight of the execution of treaties, including the performance of both Russian and other parties' obligations under the treaties and enjoyment by the Russian party of its rights flowing from them. The Prosecutor General's Office ensures the performance of the Russian party's obligations and enjoyment of its rights and monitors the performance by other contracting parties of their obligations under the treaties on legal and law enforcement assistance in criminal matters within its competence, as well as may present recommendations within its area of responsibility on the conclusion, termination or suspension of the operation of treaties.

Our Office has been at all times consistently committed to carefully preserving the operation of all bilateral and multilateral treaties within its purview to which the Russian Federation is party and unsupportive of any precipitous and miscalculated attempts to dismantle the valuable treaty base triggered by the politics and policies' flux.

Some outlooks and solutions

In addition to what was mentioned above in terms of prospects and solutions, the following points deserve our attention.

Although international treaties do not indicate the mere lack of reciprocity among valid grounds for refusal of assistance, they use the term "mutual (legal assistance)", which in our view permits to employ this in retaliation to put on hold our assistance to those denying it to us and to make the lifting of such suspension

conditional on their resumption of granting the requested assistance. Otherwise it would be utterly unfair to ride such a one-way road. Currently, we practice these tactics with regard to one country only (Georgia).

Obviously, as said, there cannot be an indiscriminate, across-the-board suspension or denial of assistance. Each and every foreign request is given careful consideration and is weighed with a view to assess whether it merits the execution, from the angle of Russia's own interests in the matter at hand in the first place. In the Russian Prosecutor General's Office it is exclusively at a high level of the Deputy Prosecutor General where a decision to refuse legal assistance may be made after a thorough and vigilant scrutiny.

Some Russian requests for tracing criminal proceeds and instrumentalities and their recovery from "unfriendly" countries may be put on ice here due to the risk of them being misappropriated by those countries on a par with assets seized and stolen from Russia and its nationals and legal entities as part of their anti-Russian "sanctions" regimes and help to Ukraine. It goes without saying that the country of the assets' origin is revictimized by such criminals and states alike.

The relevant treaties, among others the 2000 UN Convention against Transnational Organized Crime (Palermo Convention), surely offer solutions to the situations in question by providing for consultations of the states parties, negotiations or other peaceful means of settlement of their disputes as to the interpretation or application of the treaty, arbitration and, finally, as a last resort, submission of the dispute to the International Court of Justice.

To date, the International Court of Justice has considered two cases laden with issues of legal assistance in criminal matters: Certain Questions of Mutual Assistance in Criminal Matters (*Djibouti v. France*), Judgment of 4 June 2008, and Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (*Ukraine v. Russian Federation*), Judgment of 31 January 2024. (Judge *ad hoc* Professor Bakhtiyar Tuzmukhamedov who was on the panel hearing that latter case, took part in the seminar and contributed to the ensuing discussion on the subject.)

In the former, the Court found France in violation of a treaty for an unfounded refusal to Djibouti's letter rogatory.

And though in the latter it generally ruled in favor of the Russian Party, for some patently

outlandish reason, it attributed to our country the responsibility for having not meaningfully and effectively investigated alleged offences of terrorism financing, the reason for not complying with the relevant Convention requirement being actually Ukraine's own ungrounded rejection to execute Russian legal assistance requests aimed precisely at investigating the acts in question, which the Russian side was willing and able to do in good faith [6].

There are also good offices of the European Committee on Crime Problems (CDPC) and other mediators on offer like those set forth in Recommendation No. R (99) 20 of the Committee of Ministers to member States concerning the friendly settlement of any difficulty that may arise out of the application of the Council of Europe conventions in the penal field¹⁰.

However, such friendly settlement schemes and good offices are mostly no good when the lines of communication between both the states parties themselves and such mediators are cut off, and where instead of a dispute there is just a destructive conflict.

Then there are review mechanisms of the Palermo and Merida Conventions, the FATF, as well as other fora where we voice our concerns to the international assessors and the world community as a whole about the politicization of anti-crime and counter-terrorism agenda, without identification elements of specific case files.

Cybercrime

Last year in December the UN General Assembly adopted the UN Convention against Cybercrime, which is now in the process of signing and ratification.¹¹ The negotiation process for the Convention, initiated by our coun-

try, was all along politically loaded and therefore many times teetered on the brink of collapse and derailing, reflecting the civilizational clash between the neoliberal collective West and its satellites and a large part of the world majority [4].

As is known, when official channels of interstate interaction are blocked, countries have to get inventive in looking for compensatory alternative windows of cross-border opportunities and exploiting all kinds of loopholes and vulnerabilities in order to be able to lay their hands on the required evidence overseas.

Therefore, the application of the new global treaty should take into account the risks of its possible bad-faith weaponization for political and military purposes, such as those emanating from the intensified capacity building and plans of Ukraine and its allies to massively collect electronic evidence, including open source intelligence, against the Russian Federation. For this purpose, a number of interstate projects have already been established with substantial funding [2; 7; 9]¹². Such electronic "evidence" may be obtained under the Convention indirectly, exfiltrated via various proxies and under the guise of unrelated proceedings on ordinary-law crimes, with possible subsequent tampering and falsification [8. P. 66].

To prevent the materialization of such and other scenarios of threats to national security¹³, the Regulation on interagency cooperation in processing requests from competent authorities of foreign States related to crimes and other offences committed through the use of information and telecommunications technologies, computer attacks and computer incidents has been developed and was approved on August 14, 2025.

¹⁰ Recommendation No. R (99) 20 of the Committee of Ministers to member States concerning the friendly settlement of any difficulty that may arise out of the application of the Council of Europe conventions in the penal field (adopted by the Committee of Ministers on 15 Sept. 1999 at the 679th meeting of the Ministers' Deputies), Appendix to Recommendation No. R (99) 20 "Procedural guidelines for the friendly settlement of difficulties arising out of the application of conventions in the penal field".

¹¹ United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes of 24 Dec. 2024.

¹² CyberUA: Strengthening capacities on electronic evidence of war crimes and gross human rights violations in Ukraine. Available at: <https://www.coe.int/en/web/kyiv/cyberua> (accessed: 14.10.2024); Eurojust and the war in Ukraine; Core International Crimes Evidence Database (CICED). Available at: <https://www.eurojust.europa.eu/eurojust-and-the-war-in-ukraine> (accessed: 14.10.2024).

¹³ See, e.g.: Western special services' involvement in anti-Russia activities. Briefing by Foreign Ministry Spokeswoman Maria Zakharova, Moscow, March 20, 2025. Available at: https://mid.ru/ru/press_service/spokesman/briefings/2004214/?lang=en; Interview of Deputy Secretary of the Security Council of the Russian Federation O. Khramov to Rossiyskaya Gazeta, October 11, 2023. Available at: <http://www.scrf.gov.ru/news/allnews/3573/> (accessed: 16.06.2025).

In addition, a “blocking” statute was signed into law by the Russian President on July 31, 2025, introducing a new criminal offence (article 2941 of the RF Criminal Code) and aimed at precluding foreign and international bodies from undertaking unilateral measures to illegitimately collect evidence and intelligence themselves, on their own, including electronic evidence in cyberspace, in or from the territory of the Russian Federation, including through remote cross-border contacts from abroad with individuals and legal entities located on the territory of the Russian Federation, with no boots on the ground (on the sea or in the air), or to lure Russian nationals in this manner to travel abroad in order to detain them there.¹⁴ The precedent of criminal prosecution of a foreign official by Russian authorities for such actions has long become a textbook example in the world specialized literature [1. P. 96–97, 101].

On the other hand, in the current state of affairs, we ought to pull ourselves up by our own bootstraps as well; the Russian authorities, with due regard to international norms on state sovereignty, may more actively resort to the available instruments and mechanisms to collect overseas evidence and actionable intelligence, especially electronic evidence and OSINT, for their cases by themselves, like the extraterritorial reach of articles 2, 3 and 40 of the RF Criminal Procedure Code, article 27 of the UN Convention against Cybercrime (e.g., like the current overall positive experiences of communications with some foreign cryptocurrency exchanges [1. P. 81–126, 195–209]), as well as enhance the practice of hearings by Russian consular officers abroad, in particular via videoconferencing [10. P. 174–205].

A draft federal law approved by all competent federal authorities and designed to improve the regulation of consular legal assistance in domestic criminal proceedings, is also being presently considered by the Russian parlia-

ment.¹⁵ Besides, this year our Office, in collaboration with the Ministry of Foreign Affairs, has published an online compendium for Russian authorities containing voluminous country-specific information dedicated to consular evidence-gathering¹⁶.

Council of Europe conventions and bodies

We may not be particularly fond of the door nameplate of the Council of Europe and its bodies, where some hostile initiatives are at the top of their political agenda. (The most “prominent” ones of a lawfare character are the illegitimate pseudolegal mechanisms of the “Register of Damage Caused by the Aggression of the Russian Federation against Ukraine” and “Special Tribunal for the Crime of Aggression against Ukraine”¹⁷).

However, like in the case with some “hostile” states we prefer that door to be left open to us and our expert voice to be heard in Europe. Otherwise, our self-imposed silence in, and turning our back on, these structures’ workings would make us less informed and influential, and more vulnerable and exposed to the unfavorable environment. We should be careful and wise not to get provoked by it and throw the baby out with the bathwater.

Despite having abandoned the Council of Europe itself, Russia continues to be party to its time-tested anti-crime and counter-terrorism conventions and some of their review mechanisms, which, coupled with some states’ denouncing bilateral treaties, insufficiency of sectoral UN and regional conventions and principle of reciprocity, is undoubtedly in Russia’s interest. Russian experts made a significant input into developing European anti-crime instruments and mechanisms within the Council of Europe over many years. There are country representatives in those structures, who are like-minded or neutral and constructive towards Russia, and, finally, most of CE member

¹⁴ Explanatory Note to the Draft Federal Law No. 462337-8 “On amendments to the Criminal Code of the Russian Federation and article 151 of the Criminal Procedure Code of the Russian Federation (concerning the establishment of responsibility for unlawful performance of investigative, other procedural actions and operational search measures in the territory of the Russian Federation)”.

¹⁵ Draft Federal Law No. 280226-8 “On introduction of amendments to articles 453 and 456 of the Criminal Procedure Code of the Russian Federation (on the issue of the consular function of performing particular procedural actions in criminal cases pursuant to requests of competent authorities of the sending state)”, Explanatory note thereto.

¹⁶ Consular legal assistance: Information on procedural actions that can be performed by consular officers of the Russian Federation pursuant to requests of competent authorities of the Russian Federation for legal assistance in criminal, civil, administrative and administrative offence matters. Available at: <https://epp.genproc.gov.ru/web/gprf/activity/international-cooperation/help> (accessed: 16.01.2025).

¹⁷ See in more detail on all relevant projects: Russia’s war against Ukraine. Available at: <https://www.coe.int/en/web/portal/war-in-ukraine> (accessed: 07.07.2025).

states continue to cooperate in criminal matters with us on a bilateral basis in a pragmatic, mutually beneficial and respectful way. As is the case with all instruments of the kind, CE conventions set forth both obligations and rights of the contracting parties, including their right to refuse assistance.

Presently, these structures' attitudes towards our country are not homogeneous, nor are they such in some United Nations structures either. In particular, while the European Committee on Crime Problems and its subordinate bodies – the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) and the restricted Group of experts on international co-operation (PC-OC Mod) have arbitrarily suspended our membership, the Conference of the Parties to the Warsaw Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism remains rather constructive in the dialogue with Russia, despite some of our rights in that review mechanism having been curtailed, but not to a critical or irreversible point.

In 2024, at the 26th regular meeting of the Interdepartmental Commission of the Russian Federation for the Council of Europe Affairs chaired by Foreign Minister Sergey Lavrov, although the “participants gave a principled assessment of the Council of Europe's role as a tool of the United States and its allies to promote the collective West's hostile policy towards the Russian Federation, and discussed ways to counter this policy, they also considered the results of additional inventory of Russia's participation in the Council of Europe conventions open to non-member states. Further interdepartmental policy on this issue was agreed upon based on an individual approach to the council's each specific treaty, considering its practical significance for the efforts to ensure Russia's national interests”¹⁸.

In June 2025, the Committee of Ministers of the Council of Europe adopted the Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, which was developed without our participation but taking account of the input of the PC-OC's Russian member made before 2022. Down the road, we could be invited to become party to this treaty elaborated in our absence, which is somewhat discouraging of course.

Conclusion

Our opponents prepared and stubbornly keep on using their suicidal recipe for disaster in terms of their injustice and contempt for international law, recklessly creating safe harbors for criminals and jeopardizing the safety and dignity and other human rights of both foreign and their own nationals, innocent victims of grave crimes and their survivors, including children, in an irresponsible, socially dangerous and inhumane manner, the recipe and manner we cannot but condemn in the strongest terms. One has to treat such diehards as existential threat actors running amok, equally neglecting their own self-preservation and inflicting self-harm. They have been undermining their reputation as dependable and trustworthy partners in this key area of human interaction, which is bound to have enduring serious implications for the resumption and maintenance of friendly interstate relations in general and devastating consequences for the international cooperation in combating crime in particular, for years to come.

It would be unwise on our part to go out of our way to solicit their goodwill or condescension in order to regain their cooperation with us. Instead, we insist on their abiding by the mutual international legal obligations and commitments, reciprocity and comity of civilized nations, and underscore our readiness to employ the available means described above to enforce the compliance.

Having said that, we should be mindful of another important thing. In times of geopolitical trouble, states' mutual interest in a common fight against crime and terrorism normally withstands and subsists on a par with the cooperative endeavors and instrumental engagement in the areas of natural and man-made disasters and public health emergencies, as compared to the hamstrung economic or cultural cooperation between the nation states at loggerheads hitting bottom.

This never-ending joint combat and shared resilience in it represent a common good of huge value for mankind, universal common cause and denominator, and common ground as a much better alternative to the earth scorched by criminality. It is a beacon of hope in the rough water of the world history.

¹⁸ Press release on the meeting of the Interdepartmental Commission of the Russian Federation for the Council of Europe Affairs, 17 June 2024. Available at: https://mid.ru/en/foreign_policy/rso/coe/1957637/ (accessed: 07.07.2025).

This is why we appeal above all to the common sense of our counterparts and do not give up hopes that it will prevail in the near future.

We call on them to be guided by that beacon too.

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МАЯК НАДЕЖДЫ СРЕДИ «НЕДРУЖЕСТВЕННЫХ»

Введение. В июне 2025 г. в России проведен первый семинар высокого уровня по деполитизированному сотрудничеству в уголовно-правовой сфере для государств – членов и партнеров БРИКС. Статья основана на докладе автора и его обсуждении, а также других ключевых результатах семинара, содержит инвентаризацию имеющихся решений по преодолению текущего неприемлемого положения дел в данной области.

Материалы и методы. В статье исследуются соответствующие международные договоры, национальные законы и правила, законопроекты. В качестве источников используются также прецедентная практика международных судов, национальная и иностранная судебная практика, правоприменительная практика межгосударственных, национальных и иностранных правоохранительных и судебных органов, а также научная литература. Методологическую основу

исследования составили формально-юридический и сравнительно-правовой методы, методы системно-структурного анализа и синтеза социально-правовых явлений.

Результаты исследования. Влияние глобальной политики на международное сотрудничество судебных, полицейских и других правоохранительных органов, подразделений финансовой разведки представляет собой объективный факт. Вместе с тем национальное законодательство о «недружественных государствах» само по себе не касается сферы межгосударственного сотрудничества по уголовным делам. Вопрос состоит в том, является ли указанное влияние разумным и (или) правомерным по международному праву. В настоящее время по основным пунктам рассматриваемого предмета на этот вопрос приходится отвечать отрицательно, поскольку отказы во взаимной помощи в основном противоречат международно-правовым обязательствам отказывающихся стран, нарушая принцип «*racia sunt servanda*», и во многих случаях – здравому смыслу. В статье эти политические отказы распределяются по категориям и затем проводится анализ каждой из них. Они представляют собой (нечастые) прямые политические отказы в помощи; отказы, закамуфлированные под право-человеческое прикрытие, с обвинениями России в том, что она более не является участницей Европейской конвенции по правам человека и Европейского Суда по правам человека; явление «гостинга» (одностороннего прекращения коммуникации без объяснений). Особняком стоят деструктивный подход Швейцарии с ее судебной «дымовой завесой» и избирательный – со стороны США и Канады. Описанный в публикации общий ущерб различным сферам жизнедеятельности трудно переоценить.

Обсуждение и заключение. В публикации содержится инвентаризация перспектив и всех имеющихся решений, таких как проявление

взаимности, различные мирные средства разрешения споров, передача спора в Международный Суд, приводится его прецедентная практика в отношении судебно-правовой помощи, а также оценивается выполнимость каждой из этих опций. В ней освещаются соответствующие национальные законодательные инициативы, нацеленные на расширение применения принципа «*aut dedere aut judicare*», блокирование иностранных и международных экстратерриториальных операций по сбору доказательств и оперативной (разведывательной) информации на российской территории, включая электронные доказательства в информационном пространстве, и одновременно на укрепление использования самой Россией экстратерриториальных механизмов в пределах дозволяемого международным правом, в числе иного, в рамках новой Конвенции ООН против киберпреступности и посредством совершенствования использования консульской правовой помощи с применением видео-конференц-связи. В то же время российский главный центральный орган по вопросам правовой помощи по уголовным делам выступает против какого-либо демонтажа существующей договорной базы, прекращения или приостановления действия двусторонних и многосторонних антикриминальных и контртеррористических договоров, включая советско-европейские конвенции.

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Ключевые слова:

БРИКС, политизация международного антикриминального и контртеррористического сотрудничества, «недружественные государства», мирные средства разрешения споров, Международный Суд ООН, Совет Европы, экстратерриториальное собирание доказательств, киберпреступность, электронные доказательства и оперативная информация, консульская правовая помощь.

Keywords:

BRICS, politicization of international anti-crime and counter-terrorism cooperation, “unfriendly states”, peaceful means of settlement of disputes, UN International Court of Justice, Council of Europe, extraterritorial evidence-gathering, cybercrime, electronic evidence and intelligence, consular legal assistance.

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