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International legal status of operational cooperation between Europol and Interpol in combating transnational security threats

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■ **Abstract.** Operational cooperation between Europol and Interpol in the context of growing transnational threats requires a critical rethinking of its international legal status due to existing legal conflicts, divergent accountability standards and limited coherence of mandates. The study aimed to determine the level of legal compatibility of the forms of cooperation between the two organisations with the principles of international law and the norms of European Union law. The methodological basis was formed by formal legal, comparative legal and institutional analysis, with the use of case law of the Court of Justice of the European Union and the European Court of Human Rights. The study determined that the legal status of Europol and Interpol differs significantly in terms of institutional nature, sources of regulation and external control mechanisms, which affects the legal compatibility of their operational interaction. An analysis of joint operations, such as Emma and Opson II, demonstrated that the lack of unified procedures and a regulatory framework makes it difficult to ensure transparency, accountability and compliance with legal standards. The study determined that Europol is limited by the norms of European Union law, in particular, on the protection of personal data and human rights, while Interpol acts autonomously, outside the framework of supranational jurisdiction. A comparative analysis of the case law of the Court of Justice of the European Union and the European Court of Human Rights has confirmed the need to unify approaches to assessing the legality of operational activities within the framework of transnational cooperation. The study proved that the existing legal conflicts between the Interpol and Europol systems create risks of double jeopardy and legal liability, especially in the context of rapidly growing cross-border threats. The study concluded by proposing to consider the prospects of codifying the international legal framework for joint police action as a way to ensure legal certainty and efficiency of inter-institutional cooperation. The study concluded that the legal interaction between Europol and Interpol requires clearer regulatory regulation, incorporating the requirements of legal certainty, jurisdictional consistency and respect for fundamental rights. The practical significance of the study is determined by the formation of a conceptual framework for the development of unified international legal mechanisms for control, information exchange and responsibility in the field of joint operational activities

■ **Keywords:** court; data protection; conflict; legitimacy; jurisdiction; competence

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■ Introduction

The strengthening of operational cooperation between Europol and Interpol in the field of combating transnational security threats is accompanied by several international legal challenges related to the harmonisation of jurisdictions, human rights standards and compliance with the principle of legal certainty. The absence of a unified regulatory framework for the status of such cooperation raises the threat of legal fragmentation, where different interpretations of the scope of powers of both bodies may lead to conflicts between EU law and public international law. Therefore, it is necessary to revamp the legal boundaries of cooperation between supranational and intergovernmental security structures, as well as the development of a sustainable mechanism of legal accountability for actions within joint operations.

The essence of international cooperation in the fight against crime was analysed by A.R. Khomenko & V.V. Maltsev (2023) in a study on the role of Interpol as a key coordinator of transnational efforts. Using the example of combating cybercrime, the authors emphasise that the effectiveness of such actions depends primarily on the ability of Interpol to ensure prompt exchange of information and create sustainable channels of interaction with national law enforcement agencies. At the same time, the researchers draw attention to the limited legal regulation of such processes, which makes it difficult to enforce liability in case of violations when personal data is transferred or information is used beyond the originally defined purposes.

In the context of regional cooperation, the development of Europol's institutional capacity was analysed in detail by T. Dereshchuk & P. Havrylyshyn (2022) in a study on the stages of the agency's formation as a central element of the European security architecture. Particular attention is paid to the transformation of Europol's functional role from a purely coordinating one to an operationally integrated structure capable of responding directly to threats both within and outside the European Union. This highlights the growing importance of Europol within the framework of broader international efforts to counter transnational crime.

Legal personality of Interpol, enshrined in the 1956 Statute, does not provide for institutional control by European authorities. Instead, as noted by A.O. Monayenko (2023), the legal status of Europol, as defined by the EU Regulation, ensures oversight by the European Parliament and the European Commission. This asymmetry creates difficulties in the legal interaction between both organisations and creates an imbalance in transparency and accountability.

The problems of compliance of international police cooperation with the principles of the rule of law and procedural justice were addressed in detail

by N. Mushak & A. Zaporozhets (2020) and G. Calcara (2021). The author emphasises the vulnerability of Interpol to political manipulation, when authoritarian regimes use the organisation's mechanisms to persecute political opponents and independent media outside jurisdiction. The study critically assessed the lack of clear legal limits on such actions and raised the question of the need for international legal regulation that would be consistent with the principles of global constitutionalism.

In this context, considerable attention is paid to the legal issues of joint operations involving Interpol, Europol and national structures by C. Freudlsperger *et al.* (2022). Using the example of the Pandora and Emma operations, the study demonstrated that the absence of a single regulatory document creates conflicts in determining the responsibility of personnel and makes it possible to violate information circulation. This issue was addressed by A. Furger (2024), emphasising the lack of a unified legal status for employees of joint investigation teams. Such legal uncertainty, according to the researcher, complicates the protection of participants in operations and leads to a blurring of the boundaries of responsibility between the involved entities.

The problem with scientific papers on the interaction between Europol and Interpol is that most address the organisational and legal framework of each institution separately, omitting a comprehensive analysis of the international legal status of operational cooperation in combating transnational security threats. The scientific discourse is mostly limited to the study of internal data exchange procedures, without considering the specifics of the legal regime that arises in cases of inter-organisational exchange of operational information. Some works analyse the legal framework of Europol's agreements with third countries or Interpol as an organisation operating outside the EU jurisdiction, but such studies rarely address the issues of liability for personal data processing, jurisdictional compatibility or the impact of EU secondary law on joint operational activities. This study partially fills this gap by providing a legal assessment of the cooperation mechanisms between Europol and Interpol, with a focus on legal conflicts arising in the areas of human rights protection, jurisdictional liability and compliance with EU standards.

An analysis of Europol's cooperation with Interpol in countering cross-border threats reveals deep contradictions between the systems of public international law on which Interpol's activities are based and the legal system of the European Union, which sets strict requirements for the protection of personal data and legal liability for their processing. The study aimed to determine the legal compatibility of cooperation between Europol and Interpol given the EU's

human rights obligations. To achieve this goal, the following tasks were set: to study the mechanisms for controlling the legality of information exchange between institutions; to assess the impact of the EU Court of Justice's case law on personal data processing on inter-organisational interaction; to identify potential threats to the legal status of individuals who become the objects of transnational operational actions.

■ Materials and Methods

An interdisciplinary approach aimed at legal analysis of the regulatory framework and court practice on operational cooperation between Europol and Interpol was used. The source base of the study included a set of international legal acts, treaties, and EU regulations, as well as judgments of the EU Court of Justice and administrative documents regulating the activities of Europol and Interpol. The analysis was based on the fundamental documents defining the legal status of both organisations: Interpol's 1956 Statute¹, the General Regulation of Europol², and the Europol-Interpol Cooperation Agreement³. Additionally, legal instruments that define Europol's external contractual policy, including restrictions on the transfer of personal data under the EU Charter of Fundamental Rights⁴ and the General Data Protection Regulation (GDPR)⁵ were examined.

In the judicial aspect, the key judgements of the Court of Justice of the European Union that are important for the legal nature of operational cooperation: the case of Melloni⁶, which concerns the correlation between European standards of protection of rights and national constitutional guarantees in the context of the European Arrest Warrant, and the case of Poland v. Parliament and Council⁷, which concerns the limits of competence of European institutions in the field of security and human rights. The study also analysed the accompanying case law in the field of data storage, processing and exchange, which relates to the compatibility of interstate cooperation with EU primary law.

Thus, the research methodology was based on the use of legal and dogmatic analysis, comparative legal method and case-study method. The legal and dogmatic analysis was used to systematise the legal sources governing the functioning of Europol and Interpol, competencies, mechanisms for concluding international agreements and procedural interaction with European institutions. The comparative legal method is used to analyse the differences between the supranational and intergovernmental approaches to legal personality and international responsibility in the activities of Interpol and Europol.

■ Results

Legal and regulatory framework for operational cooperation between Europol and Interpol: comparative legal analysis. Interpol and Europol are key in the institutional mechanism for countering transnational threats, but their legal status differs significantly both in terms of sources of regulation and the scope of legal personality. The international legal nature of Interpol stems from its foundation as an intergovernmental organisation that operates based on the voluntary participation of member states, without being part of supranational integration entities. The primary legal document that defines the organisational structure and competencies of Interpol is the 1956 Constitution⁸, adopted at the 25th session of the General Assembly in Vienna. The Statute contains 44 articles that set out the basic principles of the organisation, including neutrality, voluntary participation, coordination function and non-interference in the internal affairs of states. The legal status of Interpol is based on the model of intergovernmental cooperation, within which the organisation has no powers that can directly change or bind domestic law. Interpol has a functional international legal personality, which permits agreements, provides internal budget, property, legal interests, and the ability to self-represent in legal relations with states and international organisations. One of the fundamental

¹ ICPO-Interpol Constitution. (1956, June). Retrieved from <https://www.jus.uio.no/english/services/library/treaties/14/14-02/interpol-constitution.html>.

² Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

³ Agreement Between Interpol and Europol. (2001, November). Retrieved from https://www.europol.europa.eu/cms/sites/default/files/documents/agreement_between_Interpol_and_Europol.pdf.

⁴ Charter of Fundamental Rights of the European Union. (2000, December). Retrieved from https://www.europarl.europa.eu/charter/pdf/text_en.pdf.

⁵ Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

⁶ Reference for a Preliminary Ruling from the Tribunal Constitutional in Case No. C-399/11 "Criminal Proceedings Against Stefano Melloni". (2011, July). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62011CN0399&qid=1747398323965>.

⁷ Judgment of the European Court of Justice in Case No. C-157/21 "Republic of Poland v. European Parliament". (2022, April). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CA0157>.

⁸ ICPO-Interpol Constitution. (1956, June). Retrieved from <https://www.jus.uio.no/english/services/library/treaties/14/14-02/interpol-constitution.html>.

legal provisions in the Constitution¹ is Article 3, which prohibits any interference by Interpol in matters of a political, military, religious or racial nature. The application of this rule is of fundamental importance in the context of using the Red Notice mechanism, as it requires a thorough check of the request's compliance with the established legal criteria. A Red Notice is a request that Interpol sends on behalf of a member state for the temporary arrest of a person for the purpose of extradition, based on a national arrest warrant. Despite the fact that a Red Notice is not an international arrest warrant in the classical sense, its legal consequences are often equated with restrictions on personal liberty, which requires special legal care on the part of states. At the same time, Interpol's activities are characterised by the absence of a supranational control mechanism, which creates difficulties in the legal assessment of the legality of the organisation's actions or inaction. Internal control is exercised through the Interpol Control Commission for Files (CCF), which functions as an independent body responsible for reviewing complaints about data processing and reviewing requests for the deletion of records. Despite Interpol's legal autonomy, its decisions may be subject to review by domestic courts, in particular when assessing extradition requests based on Red Notices.

On the other hand, Europol operates within the institutional structure of the European Union and has a fixed legal status as an agency of the European Union following Regulation No. 2016/794². This Act was adopted based on Article 88 of the Treaty on the Functioning of the European Union³, which provides for the establishment of a European Police Office to facilitate operational cooperation between Member States. Europol has a legal personality and operates as an independent organisational structure with a special legal regime, governed not only by the main Regulation⁴, but also by secondary legislation, and agreements with third countries and international organisations. In contrast to Interpol, Europol is subject to the EU's system of institutional control, including the powers of the European Parliament, the Council of the EU, the European Court of Auditors, and the European Data Protection Supervisor. Under Article 43⁵ of the Regulation, Europol must ensure

transparency of its activities, including the processing of personal data and analytical operations. Special emphasis should be placed on the provisions of Articles 18-24 of the Regulation⁶, which set out the legal grounds and restrictions for the processing of intelligence, including the criteria of lawfulness, minimisation and storage of data. The legal nature of Europol determines its supranational nature: it not only coordinates the activities of law enforcement agencies of its member states but also independently initiates, develops and implements operational and analytical projects.

A comparative analysis of Interpol and Europol shows that there are significant differences in the legal mechanisms of legitimation and operation. While Interpol operates based on the coherence of interests of its member states and has no coercive powers, Europol, within the EU's jurisdiction, operates based on delegated competencies and in cooperation with supranational institutions. This difference is also evident in the control procedures: for Interpol, these are internal regulations and voluntary standards, while for Europol, judicial and administrative responsibility within the EU legal system. From the perspective of international law, Interpol is a classic intergovernmental organisation that does not fall under the jurisdiction of any international court, while Europol is directly subject to the jurisdiction of the Court of Justice of the EU, which can interpret acts, monitor the compliance of the agency's actions with Union law, and consider claims for damages. This approach provides more effective remedies for individuals whose rights may be violated as a result of Europol's actions.

The legal sources of Interpol's activities are much less detailed and limited to the Statute, general regulations and practice of the General Secretariat. In the case of Europol, a complex system of EU legal acts applies, including the founding treaties, regulations, Council and Parliamentary decisions, guidance documents, and case law of the Court of Justice of the European Union. In this context, Interpol's legal personality is functional and limited, not encompassing the classic attributes of state or supranational sovereignty. Europol, on the other hand, has a comprehensive legal personality, which includes participation in international agreements, autonomous budgetary

¹ ICPO-Interpol Constitution. (1956, June). Retrieved from <https://www.jus.uio.no/english/services/library/treaties/14/14-02/interpol-constitution.html>.

² Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

³ Consolidation Version of the Treaty on the Functioning of the European Union. (2016, June). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legisum:4301854>.

⁴ Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

⁵ Ibidem, 2016.

⁶ Ibidem, 2016.

policy, the ability to be a party to litigation, and to enter into international administrative arrangements with the approval of the European Commission.

Legal interaction between Europol and Interpol is structured based on treaty instruments of an inter-institutional nature that regulate the exchange of information, coordination of actions, and harmonisation of standards in the field of police cooperation. The main legal act that laid down the legal basis for official cooperation between these organisations is the Agreement on Cooperation between Europol and Interpol¹, signed on 4 December 2001 in The Hague. This agreement was based on the legal framework in force at the time of the existence of Europol as an organisation established by the 1995 Convention² and remains legally valid to this day based on the principle of succession.

In terms of its legal nature, the 2001 Agreement³ is not an international treaty within the meaning of the 1969 Vienna Convention on the Law of Treaties⁴, as it is not concluded between states or intergovernmental organisations in the public law sense. At the same time, it is a form of administrative agreement between an international intergovernmental organisation and a supranational agency of the European Union. The content of the agreement⁵ is mainly of a coordination and technical-operational nature, but its provisions create obligations for the parties regarding the method, scope and criteria for information exchange. The agreement provides for the establishment of a joint mechanism for assessing requests, transferring analytical data, and agreeing on procedures for confidentiality and mutual protection of personal information. The agreement defines clear areas of cooperation, including the exchange of operational information, coordination of actions in investigations, exchange of databases,

participation in joint trainings, and joint strategic planning. Importantly, the parties agreed to use special communication channels, particularly the Interpol I-24/7 Databases (2025) network adapted to Europol procedures, and vice versa, limited access of Interpol to the Europol information system. The legal significance of this access requires a separate qualification, as it is access to data collected following EU law, including Regulation No. 2016/794⁶ and the GDPR⁷, which imposes restrictions on their transfer to third parties, even international organisations. A separate group of instruments is made up of administrative arrangements and protocols of understanding, which, although they do not have the formal status of international treaties, create legal obligations of the parties that are subject to analysis from the perspective of good governance principles.

The issue of compatibility of these contractual instruments with primary and secondary EU law is of particular importance in the context of jurisdictional limitations. EU law requires that any agreements between Europol and third parties do not contradict the provisions of the founding treaties, in particular Article 16 TFEU⁸ on data protection, and do not violate the principle of respect for the EU Charter of Fundamental Rights⁹. According to the judgment of the Court of Justice of the European Union in case No. C-301/06¹⁰, any international agreement or administrative decision of an EU agency must follow the fundamental rules of Union law, including proportionality, legal certainty and respect for the rights of the persons affected by the agreements.

Contractual instruments of cooperation between Interpol and Europol must be subject to a legal assessment for compliance with the provisions of Regulation No. 2016/794¹¹, in particular Articles 23, 25, 26, which regulate the transfer of information to

¹ Agreement Between Interpol and Europol. (2001, November). Retrieved from https://www.europol.europa.eu/cms/sites/default/files/documents/agreement_between_Interpol_and_Europol.pdf.

² Europol Convention. (1995, November). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:41995A1127%2801%29>.

³ Agreement Between Interpol and Europol. (2001, November). Retrieved from https://www.europol.europa.eu/cms/sites/default/files/documents/agreement_between_Interpol_and_Europol.pdf.

⁴ Vienna Convention on the Law of Treaties. (1969, May). Retrieved from https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

⁵ Agreement Between Interpol and Europol. (2001, November). Retrieved from https://www.europol.europa.eu/cms/sites/default/files/documents/agreement_between_Interpol_and_Europol.pdf.

⁶ Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

⁷ Ibidem, 2016.

⁸ Consolidation Version of the Treaty on the Functioning of the European Union. (2016, June). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legisum:4301854>.

⁹ Charter of Fundamental Rights of the European Union. (2000, December). Retrieved from https://www.europarl.europa.eu/charter/pdf/text_en.pdf.

¹⁰ Judgment of the European Court of Justice in Case No. C-301/06 "Ireland v. European Parliament and Council of the European Union". (2009, February). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62006CJ0301>.

¹¹ Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

third parties and set requirements for mutual legal protection. Such transfers require a proper legal basis, which can be provided either by an international agreement concluded by the European Commission or by a special act of delegation of competence. However, cooperation with Interpol goes beyond the classical legal mechanism of concluding international agreements with the EU and is based on agreements subject to the principle of loyal cooperation and internal risk assessment procedures. Given the specifics of Interpol's status as an organisation that is not obliged to comply with EU law, special protection measures are required, which Europol implements in the form of technical barriers, information verification procedures and periodic audits. This correlates with the requirements of Article 36 of Regulation No. 2016/794¹, which requires Europol to provide legal and technical safeguards in the event of a transfer of personal data outside the EU. Failure to comply with these conditions entails legal liability to individuals whose rights have been violated, including

through complaints to the European Ombudsman or lawsuits to the Court of Justice of the EU.

These limitations highlight the fundamental difference between Europol, as a body fully integrated into the EU legal framework, and Interpol, which operates under an autonomous international statute and avoids direct accountability to EU institutions. This divergence creates significant challenges in mutual recognition of legal standards, especially in the areas of personal data protection, legal liability, and access to legal protection. To demonstrate the systemic nature of these differences and the legal implications of operational cooperation, a comparative table (Table 1) of the key characteristics of the legal status of Europol and Interpol is provided below. The table not only summarises the regulatory sources and institutional frameworks of both organisations but also demonstrates analytical conclusions on potential legal conflicts, risk areas and options for legal harmonisation within the framework of joint activities.

Table 1. Comparative analysis of the institutional status of Europol and Interpol

Criteria	Europol	Interpol	Analytical implications for joint ventures
Legal basis	Regulation No. 2016/794 ²	Constitution of Interpol ³	Different legal force and level of legal enforcement
Institutional subordination	European Commission, Council of the EU, control by the European Parliament	Interpol General Assembly (annual), General Secretariat	Lack of direct accountability of Interpol to EU institutions, differences in transparency and accountability
Status in international law	EU agency (secondary law entity)	An international organisation based in France	Cooperation is complicated by the lack of a unified legal framework; the need to adapt joint legal procedures
Membership	27 EU member states, special agreements with third countries	195 states	Differences in legal and political approaches pose threats to the legal homogeneity of operational cooperation
Scope of powers	Coordination, analysis, no right to arrest	Wanted notice, coordination, no investigative powers	There is a risk of legal imbalance in joint actions due to different depths of mandates and legal restrictions
Control mechanisms	European Ombudsman, RAB (data control)	Internal Commission (CCF)	The absence of a single external control mechanism makes it difficult to synchronise transparency and accountability standards

Source: compiled by the authors

A comparative analysis of the legal status of Europol and Interpol shows significant differences in their institutional nature, scope of competence and accountability, which directly affects the formats and legal boundaries of operational cooperation. The difference in control mechanisms, in particular, the lack of judicial oversight in Interpol, similar to that of the EU Court of Justice, makes it difficult to unify human rights standards within joint operations. In addition, the level of integration of Europol into

the EU regulatory framework creates an obligation to comply with confidentiality standards and procedural safeguards, while Interpol is mainly guided by internal procedures. These institutional differences create an asymmetric model of operational cooperation that requires additional coordination and legal harmonisation mechanisms. The effectiveness of joint actions depends to a large extent on the legal compatibility of the structures involved in transnational security measures.

¹ Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

² Ibidem, 2016.

³ ICPO-Interpol Constitution. (1956, June). Retrieved from <https://www.jus.uio.no/english/services/library/treaties/14/14-02/interpol-constitution.html>.

In the context of the current stage of legal evolution of cooperation between Interpol and Europol, there is a tendency to hybridise the sources of law by combining the rules of international administrative law, secondary EU law and the practice of self-regulation between institutions. Such a structure is the result of a pragmatic need to respond quickly to transnational threats, but at the same time creates legal uncertainty in terms of the hierarchy of sources, control mechanisms and human rights guarantees. The issue of transparency of such treaty mechanisms remains particularly important.

The contractual and legal framework for cooperation between Interpol and Europol comprises a set of legal, administrative and procedural mechanisms that, despite their non-fragmentary legal nature, have a significant impact on the international legal practice of cooperation in the field of combating organised crime. From a legal point of view, the interaction between the two institutions is based on functional compatibility but requires further legal formalisation, in particular through the conclusion of a new generation of agreements. The alignment of the contractual and legal framework for cooperation between Interpol and Europol with European standards takes place in the context of the heterogeneity of their legal models, which necessitates a procedural balance between international autonomy and supranational regulation. This balance becomes especially important in the context of concluding external agreements with third parties, where interaction between the two structures should not only ensure the effectiveness of the fight against transnational crime but also meet the requirements of legal certainty and democratic control.

The legal mechanism of cooperation between Interpol and Europol with third parties is characterised by a complex contractual and legal structure that reflects the differences in the international legal status of both organisations and the differences in legal approaches to concluding agreements. Given that Interpol is an intergovernmental organisation operating under its 1956 Charter¹, it has the autonomy to enter into international agreements with third states and organisations based on decisions of the General Assembly or the Executive Committee. In this context, Interpol's treaty practice is of a classic nature, typical of international organisations, and does not provide for supranational control by bodies similar to EU institutions. In the case of Europol, the situation is fundamentally different, as it functions as an agency of

the European Union, whose activities are regulated by Regulation (EU) 2016/794². This Regulation establishes a clear procedure for entering into agreements with third parties, providing for approval by the European Commission and the European Parliament, as well as compliance with the Union's legal standards, in particular in terms of personal data protection.

A key element of the legal analysis is the consideration of the legal form of agreements between Europol and third countries, which are divided into strategic and operational agreements. Strategic agreements provide for a general framework of cooperation without the exchange of personal data, while operational agreements include provisions on the transfer and processing of personal information, which significantly increases the level of legal requirements. The Regulation requires an adequate level of legal protection in the partner's jurisdiction, which is determined by an assessment by the Commission or by the introduction of special contractual safeguards. If the assessment reveals that the standards of the partner state do not comply with EU standards, the conclusion of an agreement or data exchange is deemed impossible. In this context, the principle of "adequacy" applies or the so-called "special safeguards" is relevant, which are enshrined directly in the texts of the agreements. On the part of Interpol, agreements with third parties are more flexible, as they do not oblige the organisation to comply with EU standards. However, this creates risks of fragmentation of legal approaches to information exchange and complicates the unification of procedures, especially in the context of parallel cooperation with Europol. In some cases, Europol is forced to restrict the transfer of information received from Interpol to third countries that do not guarantee adequate protection, which creates complex legal conflicts. These conflicts are particularly acute in cases where non-member states of the Council of Europe request access to information collected through cooperation between Interpol and Europol.

European institutions play a central role in ensuring the legal legitimacy of Europol's external contractual activities. In particular, the EU Commission acts as a legal auditor of agreements with third countries, providing assessments of the compliance of partner countries' legal systems with EU law. The European Parliament monitors the fulfilment of Europol's obligations to comply with the principles of EU law and has the power to raise objections to the conclusion of certain agreements. The Council of the EU sets the

¹ ICPO-Interpol Constitution. (1956, June). Retrieved from <https://www.jus.uio.no/english/services/library/treaties/14/14-02/interpol-constitution.html>.

² Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

political priorities for Europol's external activities, including mandates to negotiate agreements with key strategic partners. This tripartite system of institutional control strengthens Europol's legal responsibility for compliance with primary and secondary law.

In the context of analysing the legal consequences of concluding agreements with states that deny the jurisdiction of international courts, it is particularly relevant to consider specific examples of such agreements. Such cases illustrate a potential threat to the effectiveness of international justice and raise concerns in terms of compliance with the principle of the inevitability of legal responsibility. In particular, the United States has not ratified the Rome Statute of the International Criminal Court¹ (ICC), despite initially signing it in 2000. In 2002, the George W. Bush administration officially withdrew its signature (United States efforts..., 2000), declaring that the ICC's jurisdiction over American citizens was unacceptable. Since then, the United States has been actively seeking to enter into bilateral agreements with other states under Article 98 of the Rome Statute, which prohibits the transfer of US citizens to the ICC without the consent of the US government. Such agreements have been concluded with more than 100 countries, many of which are parties to the Rome Statute, which has led to a conflict between the international obligations of these countries and political pressure from Washington. The practice of bilateral agreements by the United States has been criticised by human rights organisations as undermining the principle of the ICC's general jurisdiction. This approach illustrates the deep institutional distrust of the United States in the mechanisms of international criminal justice. As a result, the situation with the US position on the ICC is indicative of the limits of political realism in international law and the selectivity of its application.

Israel, in turn, has a consistent position of non-recognition of the jurisdiction of the International Criminal Court (ICC), which was particularly expressed after the announcement in 2021 of an official investigation into alleged crimes in the occupied Palestinian territories, including the Gaza Strip, the West Bank and East Jerusalem (Situation in the State of Palestine..., 2024). Despite the fact that Palestine was recognised by the ICC as a state party to the Statute in 2015, Israel does not recognise its statehood and therefore the Court's jurisdiction over the situation in these territories. Israeli officials have officially stated that the ICC "has no mandate" to investigate, as it is not authorised to consider disputes over territories whose status is subject to political negotiations. In response, the ICC stressed that its mandate does not depend on the recognition of the parties, but

is conditioned by the jurisdictional power under the Rome Statute². The situation reveals a deep conflict between international legal mechanisms and political approaches to conflict regions. Israel's refusal to cooperate impedes the implementation of key procedural steps, such as the collection of evidence, interrogation of witnesses, and execution of warrants. This undermines the principle of the universality of criminal justice and sets a precedent for selective implementation of international law. In addition, this position calls into question the effectiveness of international justice as a tool to combat impunity for international crimes. The absence of dialogue on the part of a state with a developed legal system also makes it difficult to develop common standards for responding to humanitarian violations.

In 2025, Hungary became the first European Union member state to initiate the procedure for withdrawal from the Rome Statute of the International Criminal Court (ICC). This decision was made after Israeli Prime Minister Benjamin Netanyahu visited Budapest, despite an arrest warrant issued by the ICC for alleged war crimes in Gaza. Prime Minister Viktor Orban said that the ICC had become a "political tool" and that Hungary would not comply with its decisions (Reuters, 2025). The country's parliament approved the bill on 20 May 2025, officially launching the withdrawal process, which will take effect one year. The move has raised concerns among other EU members and international human rights organisations. The European Commission has warned that ignoring the ICC warrant violates Hungary's international obligations and could damage its reputation. Critics also point out that Hungary's withdrawal from the ICC undermines the efforts of international justice and the fight against impunity for the most serious crimes. This precedent calls into question the unity of the European Union's position in support of international criminal justice and could have long-term implications for justice cooperation and human rights in the region.

Concluding agreements or making political decisions that negate the jurisdiction of international judicial institutions has significant legal consequences. It contributes to the formation of gaps in the global justice system, reduces the effectiveness of international legal mechanisms and creates a threat of selective application of international law depending on political expediency. In such cases, legal interaction should be subject to restrictions that ensure that the information obtained cannot be used to violate fundamental rights or in politically motivated persecution. In view of this, the texts of agreements often contain provisions on limited scope or establish suspension mechanisms in case of violations. This practice

¹ Rome Statute of the International Criminal Court. (1998, July). Retrieved from <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.

² Ibidem, 1998.

demonstrates the European Union's desire to promote human rights standards in its external activities, even within the framework of interagency cooperation.

The legal mechanism for Europol and Interpol cooperation with third parties has a multi-level structure that combines the international legal autonomy of Interpol with supranational legal requirements for Europol. The main limiting factors remain the standards of personal data protection and human rights, which take precedence over political or security considerations in the EU legal order. Therefore, the future development of such cooperation depends on the ability to harmonise contractual approaches and ensure systematic control over the compliance of international cooperation practices with the fundamental principles of EU law. The issue of legal liability in joint operations of Europol and Interpol is directly related to the peculiarities of their contractual and legal status and the nature of their interaction with third parties, which is determined by both institutional boundaries and standards of the EU legal order. Despite the common interest in countering transnational threats, their cooperation is carried out in different legal systems, which makes it impossible to introduce a unified approach to liability for offences. This legal fragmentation creates gaps in the regulation of cases of unlawful information sharing or abuse within the framework of joint actions, including the lack of clear procedures for determining liability for data privacy violations, as well as insufficient mechanisms for monitoring compliance with information protection standards. The uncertainty regarding the entity that is obliged to compensate for damages in the event of misconduct in the course of cooperation between different jurisdictions is particularly acute. Therefore, the issue of harmonising legal standards and formalising the distribution of responsibility between agencies is a key element in ensuring the legitimacy and effectiveness of operational cooperation.

Operational cooperation between Interpol and Europol, as well as with other law enforcement agencies, raises several legal challenges related to legal uncertainty regarding liability for the consequences of joint actions, data exchange and the status of the persons involved. One of the most pressing issues is the problem of legal liability for damage that may arise as a result of information exchange between organisations or during joint operational activities. In particular, the question arises as to which entity – Europol, Interpol or national law enforcement agencies – is legally responsible in the event of a violation of a person's rights as a result of actions based

on false or illegally transmitted data. The absence of a defined mechanism for allocating responsibility complicates the process of protecting the rights of persons subject to investigative or operational measures.

In this context, the issue of compliance of such actions with the European standards of personal data protection established, in particular, by the GDPR¹ and Regulation No. 2016/794² becomes particularly relevant. When data is transferred from one organisation to another, and then to national law enforcement agencies, there is a multi-stage responsibility that does not have a single point of control. This questions the effectiveness of appeal mechanisms and legal protection of the individual, as none of the parties recognises itself as solely responsible for the violation. In addition, the lack of court decisions that would set a precedent in this area further exacerbates legal uncertainty. Another systemic challenge is the absence of a single regulatory act that would comprehensively regulate operational cooperation between law enforcement agencies of EU member states, Interpol and Europol. The existing legal framework consists of fragmented regulations, memoranda of understanding, internal instructions and regulations, which are often departmental in nature and do not have the status of sources of international or supranational law. Such legal pluralism creates a legal vacuum in situations requiring unified standards, for example, in cases of interference with privacy, restrictions on freedom of movement or the enforcement of procedural measures. In this context, the legitimacy of operational measures taken on the basis of data obtained through channels that do not provide for full verification of their legal origin is particularly problematic. Another challenge is the legal status of experts, analysts and employees involved in joint investigative teams or operational units operating under bilateral or multilateral agreements between Europol, Interpol and national authorities. The EU law does not establish a clear status of such persons, in particular, regarding their procedural status, the obligation to comply with the national legislation of the host state, as well as jurisdiction in case of offences committed by them. The absence of a unified regulatory approach makes it difficult to determine the legal regime of their activities and leads to potential conflicts of jurisdiction, especially in cases where employees of one state perform actions on the territory of another without direct national legitimisation. The situation is particularly critical when it comes to the application of coercive measures within a joint investigation team formed following Council

¹ Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

² Ibidem, 2016.

Framework Decision on Joint Investigation Teams¹. Although this document establishes general rules for the establishment of such groups, it does not contain sufficiently specific provisions on the procedural autonomy of Europol officers or invited experts within the jurisdiction of a foreign state. As a result, there is a legal conflict between the rules of national criminal procedure and the interagency instructions based on which the joint team functions. This situation is particularly dangerous in view of the possibility of violating the rights of detainees or persons subject to operational and investigative measures without proper control by the judiciary.

Legal risks are further complicated by the fact that Interpol officers are often not subject to legal liability in the state where they act, as their status is determined by international conventions on the immunity of international organisations. This legal situation deprives the injured party of the opportunity to pursue effective remedies. In turn, Europol, despite being bound by EU law, does not have the authority to apply enforcement measures, which creates an additional legal gap in joint operations. The question also arises as to the legal nature of the information transmitted as part of such operations. In some cases, it is obtained as part of an administrative exchange without prior judicial authorisation, which may contravene the provisions of the constitutions of the Member States on the inviolability of private life. At the same time, legal mechanisms to guarantee the protection of such information at all stages of its processing remain underdeveloped. This opens the possibility of abuse and creates potential liability not only for the organisation but also for individual employees. Gaps in legal regulation also contribute to ambiguous interpretation of the limits of authority when using analytical platforms such as the Europol Information System (EIS) or Interpol I-24/7 Databases (2025), where data can be reused for purposes other than those originally intended.

Operational cooperation between Europol and Interpol is a complex phenomenon of modern international law, based on a combination of intergovernmental and supranational legal personality. An analysis of the legal status of both institutions has shown significant differences in their founding documents, mechanisms of functioning and subordination to

controlling bodies. Interpol, acting based on the 1956 Constitution², retains its classic intergovernmental nature, which ensures flexibility during agreements with third parties without external control. Instead, Europol, as an EU agency, is subject to primary and secondary EU law, which leads to strict requirements for procedures, especially in the area of information exchange. The absence of a unified legal act regulating joint operational measures creates gaps in the protection of the rights of persons who become the objects of such actions. An important limiting factor is also the need to ensure that Interpol practices comply with human rights standards applicable to the EU legal order. All the identified legal challenges require gradual unification or even codification of the international legal framework for such cooperation. In general, the main condition for the effectiveness and legitimacy of the joint activities of Interpol and Europol is to ensure legal certainty, transparency of control mechanisms and compliance with international human rights standards.

Legal analysis of the practice of cooperation between Europol and Interpol in the context of transnational threats. The international legal status of operational cooperation between Europol and Interpol in the field of combating transnational security threats has gained particular importance in the context of the case law of the Court of Justice of the European Union, which forms the legal boundaries of law enforcement agencies in terms of maintaining a balance between the effectiveness of criminal prosecution and the protection of fundamental human rights. An important benchmark for assessing the legal status of Europol is the case of Melloni³, in which the CJEU emphasised the priority of secondary EU law, in particular the Framework Decision on the European Arrest Warrant⁴, over national standards that provide broader guarantees of rights. In this context, it was established that EU law can limit national standards if necessary to ensure effective prosecution, which directly affects the justification of the powers of structures such as Europol in the field of interstate cooperation. At the same time, the Court pointed out that these restrictions are permissible only if they do not violate the essential content of the rights guaranteed by the EU Charter of Fundamental Rights. Case of Poland v. Parliament and Council⁵

¹ Council Framework Decision on Joint Investigation Teams. (2022, June). Retrieved from http://data.europa.eu/eli/dec_framw/2002/465/oj.

² ICPO-Interpol Constitution. (1956, June). Retrieved from <https://www.jus.uio.no/english/services/library/treaties/14/14-02/interpol-constitution.html>.

³ Reference for a Preliminary Ruling from the Tribunal Constitutional in Case No. C-399/11 “Criminal Proceedings Against Stefano Melloni”. (2011, July). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62011CN0399&qid=1747398323965>.

⁴ Council Framework Decision on the European Arrest Warrant. (2002, June). Retrieved from http://data.europa.eu/eli/dec_framw/2002/584/oj.

⁵ Judgment of the European Court of Justice in Case No. C-157/21 “Republic of Poland v. European Parliament”. (2022, April). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CA0157>.

is a key case in terms of legitimising European Regulation No. 2022/991¹, which granted Europol expanded powers to process large amounts of data. The CJEU confirmed the legality of this expansion, pointing to the existence of sufficient data protection safeguards and effective control by the European Data Protection Supervisor. The judgment establishes the legal framework within which Europol can conduct automated data processing, in particular in cooperation with Interpol, which is important for assessing its international legal status as a body capable of acting autonomously within the scope of its delegated competencies. In light of this decision, the issue of compliance of Europol's activities with the principle of proportionality deserves special attention, in particular when storing personal data of persons not involved in criminal activity, which is directly related to operational cooperation with Interpol.

A legal analysis of the case law also shows that the European Court draws a clear distinction between the permissible scope of data processing powers and the prohibition of mass surveillance without individual justification. In its decisions related to access to metadata (e.g., *Digital Rights Ireland*², *La Quadrature du Net*³), the Court has set strict limits on data retention, emphasising that any interference with the right to respect for private life must be justified, necessary and proportionate. These principles are also relevant for Europol in its cooperation with Interpol, in particular in the aspect of transatlantic information exchange, which does not always fall under EU jurisdiction but has legal consequences for EU entities. In the area of joint prosecution of transnational crime, the EU Court of Justice gives priority to the principle of mutual recognition of judgments, but only if procedural safeguards are observed. The *Melloni*⁴ judgment obliges Member States not to obstruct the execution of a European Arrest Warrant, even if national standards are higher, which also affects the legal position of Europol as a coordinator of such processes. At the same time, Court recognised that Member States may refuse to extradite if there is a risk of human rights violations, which directly relates to the exchange of information between law enforcement agencies, including Interpol, when there are grounds to believe that the prosecution is initiated for political reasons or in the absence of fair trial guarantees.

The EU Court's jurisprudence also emphasises the need for institutional control over the limits of permissible interference with the right to defence in criminal proceedings. In case of *Lopes da Silva Jorge*⁵, the Court emphasised the obligation of the competent authorities to check for systemic deficiencies in the justice system of the requesting state. This provision also applies to cases where Interpol tips or requests are initiated by non-EU countries, which places an additional burden on Europol to verify the legitimacy of the request before the information is used for investigative purposes within the EU. This creates standards that oblige law enforcement agencies to check not only the legitimacy of the source, but also the potential threat to human rights.

The case law of the Court of Justice of the European Union forms a strict legal framework that sets limits for Europol's operational cooperation with Interpol in the context of maintaining a balance between the effectiveness of criminal prosecution and guarantees of individual rights. The judicial assessment covers both the legal status of Europol and the mechanisms of data processing, storage and transmission. All of these aspects have an international legal dimension, as they relate to the relationship between EU internal law and the global system of police cooperation, in particular within Interpol. The standards established by the Court require Europol not only to follow formal procedures, but also to conduct a substantive analysis of legal compliance in any cross-border operation involving the exchange of data, prosecution or arrest of a person. The Court's jurisprudence creates a binding legal framework that gradually transforms the operational activities of law enforcement agencies into a sphere of strict legal control and accountability.

Operational cooperation between Europol and Interpol in joint special operations is important empirical evidence of the actual implementation of their international legal status. An analysis of operations such as *Pandora* (International art trafficking sting..., 2023) and *Operation Emma* (European Money Mule Action) (2,469 money mules arrested in worldwide crackdown against money laundering, 2022) can be used to assess the level of compatibility of the legal mandates of both organisations, as well as to identify key legal and institutional

¹ Regulation of the European Parliament and of the Council No. 2022/991 "On Regulation (EU) 2016/794, as Regards Europol's Cooperation with Private Parties, the Processing of Personal Data by Europol in Support of Criminal Investigations, and Europol's role in Research and Innovation". (2022, June). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/991/oj/eng>.

² Judgment of the European Court of Justice in Case No. C-301/06 "Ireland v. European Parliament and Council of the European Union". (2009, February). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62006CJ0301>.

³ Judgment of the European Court of Justice in Case No. C-470/21 "La Quadrature du Net and Others v. the Prime Minister and the Ministry of Culture". (2024, April). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62021CJ0470>.

⁴ Reference for a Preliminary Ruling from the Tribunal Constitucional in Case No. C-399/11 "Criminal Proceedings Against Stefano Melloni". (2011, July). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62011CN0399&qid=1747398323965>.

⁵ Judgment of the European Court of Justice in Case No. C-42/11 "Joao Pedro Lopes Da Silva Jorge". (2012, September). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62011CJ0042>.

mechanisms that ensure joint activities in the field of countering transnational threats. The international legal status of such operations remains complex and insufficiently regulated. Europol operates as an agency of the European Union, acting within the framework of EU law, and Interpol as an inter-governmental international organisation, subject to public international law. Their cooperation in joint operations is formally based on a 2001 cooperation agreement¹, which is of a mixed legal nature: partly contractual and partly administrative.

Operation Pandora, launched in 2016, is an ongoing series of operational actions aimed at identifying, intercepting and recovering illicitly exported cultural objects. Europol provides coordination from EU countries, while Interpol acts as a global intermediary, involving third non-EU countries. Cooperation takes place through the exchange of analytical data, coordination of investigative actions, synchronised searches and arrests. The legal regime of this operation is based on the consent of the participating states, the provisions of the relevant EU regulations on Europol, the Interpol Charter, as well as bilateral or multilateral memoranda of cooperation. The main difficulty lies in ensuring compatibility of legal standards, in particular regarding the protection of the rights of suspects, compliance with the procedure for seizing cultural property and its return to the state of origin. The operation pays considerable attention to the use of databases. Interpol provides access to its register of lost and stolen works of art, while Europol processes information within the framework of the Athena analytical project (Behavioural and societal aspects of foreign..., (2025). This creates a situation of double liability for the processing of personal and evidentiary data, which raises the issue of legal liability in case of violations.

As for Operation EMMA (2,469 money mules arrested..., 2022), it was launched in 2016 at the initiative of Europol and financial institutions, and later joined by Interpol. The operation aims to identify and neutralise money mule schemes of persons involved in money laundering. A special feature of this operation is the emphasis on combating cybercrime and financial crimes. The legal status of the EMMA operation is even more complex. Interpol's participation involves national police forces from outside the EU, including states with varying degrees of compliance with the standards of the European Convention on

Human Rights. This calls into question the uniformity of the legal framework and requires a complex legal examination before operational actions can be taken. Europol, under EMMA, operates following the provisions of Regulation No. 2016/794², and its powers focus on analytical support, intelligence sharing and the initiation of investigations. Interpol, on the other hand, channels requests to national bureaus and processes red notices. The mechanism of information exchange between the two agencies is based on confidentiality standards, but at the same time depends on the domestic legislation of the participating states. There is a problem of double reporting within EMMA. For example, national officers in joint investigation teams may be subject to both Europol directives and Interpol procedures, which creates legal uncertainty in the event of conflicting decisions. In such situations, national jurisdictions tend to have the final say, which hampers operational efficiency.

Notably, neither operation has a codified legal framework in the form of an international treaty. They are implemented through administrative instruments, such as protocols of intent, exchanges of letters and working procedures. This raises issues of legitimacy and accountability, especially in the context of legal certainty. Problems also arise in the area of personal data processing. The involvement of non-EU third parties calls into question compliance with the provisions of the GDPR³, which is binding on Europol. Interpol, not being a subject of EU law, is not subject to this regulation, which makes it impossible to establish a single standard of protection.

Despite these difficulties, both operations have demonstrated practical effectiveness. In particular, during Operation PANDORA VII alone, law enforcement agencies from more than 28 countries, with the support of Europol, Interpol and the World Customs Organisation, seized more than 11,000 cultural objects, including archaeological artefacts, coins, paintings and books (International art trafficking operation leads..., 2023). As part of Operation EMMA VIII, 8,755 money mules were identified in 25 countries, more than 4,000 fraudulent transactions totalling more than €17.5 million were recorded, and more than 2,469 people were arrested (2 469 money mules arrested..., 2022). This effectiveness was made possible by the use of unified digital data exchange platforms, the integration of national operational centres in real time, and the application of

¹ Agreement Between Interpol and Europol. (2001, November). Retrieved from https://www.europol.europa.eu/cms/sites/default/files/documents/agreement_between_Interpol_and_Europol.pdf.

² Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

³ Regulation of the European Parliament and of the Council No. 2016/794 "On the European Union Agency for Law Enforcement Cooperation (Europol) and Replacing and Repealing Council Decisions No. 2009/371/JHA, No. 2009/934/JHA, No. 2009/935/JHA, No. 2009/936/JHA and No. 2009/968/JHA". (2016, May). Retrieved from <http://data.europa.eu/eli/reg/2016/794/oj>.

algorithms for analysing suspicious financial flows. In summary, it is possible to argue that the international legal status of such transactions needs to be clearly defined, and the regulatory framework needs to be systematised. It would be advisable to develop a unified model of agreements between Interpol, Europol and third parties on joint actions. This will contribute to both the legitimisation of such operations and compliance with the principle of legal certainty in the context of the global fight against security threats.

The international legal status of operational cooperation between Europol and Interpol requires careful analysis in terms of compatibility with the fundamental principles of public international law. In the context of combating transnational security threats, such cooperation includes data transfer, joint investigative activities, coordination of search operations and exchange of operational information, which involves mutual recognition of powers and legal decisions. The central element that determines the legitimacy of this cooperation is the principle of legal certainty, which is enshrined in numerous

international documents, including decisions of international judicial bodies. Operational cooperation between the two organisations should be based on transparent legal grounds that prevent arbitrary interference with individual rights and guarantee access to effective remedies.

In this context, the case law of the Court of Justice of the European Union is of particular importance, as it forms the legal framework for the admissibility of information exchange between Europol and Interpol, and outlines standards for the protection of human rights in the context of operational cooperation. The judgments of the Court of Justice of the European Union not only specify the content of the principle of legal certainty, but also set requirements for proportionality, legality and transparency in the activities of law enforcement agencies. Court precedents demonstrate how the European Union institutionalises the balance between the need to ensure public safety and the observance of fundamental rights. Below is an overview of key cases (Table 2) that have had a significant impact on the regulation of cooperation between Europol and Interpol.

Table 2. The main judgements of the Court of Justice of the European Union defining the legal framework of Europol's activities in cooperation with Interpol

Case	Year	Key legal issue	The court's decision	Impact on Europol/Interpol practice
No. C-301/06 ¹	2009	Choosing the right legal basis for Directive No. 2006/24/EC ² on data retention	The court ruled that the legal basis of the Directive is the internal market, not police or judicial cooperation	Clarification of the scope of competence of EU bodies in the field of data storage. Determining the legal nature of data processing measures has become a guideline for distinguishing between the functions of Europol and Interpol
No. C-210/16 ³	2018	Shared responsibility for data processing between the two entities	The court found that the page and platform administrators are jointly liable for	A similar principle applies to Europol when transferring data to Interpol
No. C-156/2 ⁴	2022	Independence of data protection authorities	The Court emphasised the need for independent supervision of personal data processing authorities	Europol should ensure that cooperation with Interpol does not circumvent independent oversight (EDPS)
No. C-817/19 ⁵	2022	Is mass data sharing (Passenger Name Records) compatible with human rights in the EU	The Court recognised that even for security reasons, processing must be proportionate and reasonable	The possibility of automated exchange of information without a thorough legal assessment has been reduced, including cooperation with Interpol
No. C-203/21 ⁶	2022	Observance of human rights in the EU when placing an Interpol Red Notice	The Court ruled that Member States are obliged to verify the observance of an individual's rights before applying a Red Notice	Mandatory human rights checks by Europol and national authorities

Source: compiled by the authors

¹ Judgment of the European Court of Justice in Case No. C-301/06 "Ireland v. European Parliament and Council of the European Union". (2009, February). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62006CJ0301>.

² Directive of the European Parliament and of the Council No. 2006/24/EC "On the Retention of Data Generated or Processed in Connection with the Provision of Publicly Available Electronic Communications Services or of Public Communications Networks and Amending Directive 2002/58/EC". (2006, March). Retrieved from <https://eur-lex.europa.eu/eli/dir/2006/24/oj/eng>.

³ Judgment of the European Court of Justice in Case No. C-210/16 "Independent Centre for Data Protection Schleswig-Holstein v. Schleswig-Holstein Business Academy GmbH". (2018, June). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62016CJ0210>.

⁴ Judgment of the European Court of Justice in Case No. C-156/21 "Hungary v. European Parliament and Council of the European Union". (2022, February). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62021CJ0156>.

⁵ Judgment of the European Court of Justice in Case No. C-817/19 "Human Rights League ASBL v. Council of Ministers". (2022, June). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62019CJ0817>.

⁶ Judgment of the European Court of Justice in Case No. C-203/21 "Delta Destroy". (2023, December). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=ecli:ECLI:3AEU%3AC%3A2022%3A865>.

The analysis of the court decisions presented in the table identified several conceptually important legal guidelines that form the regulatory framework for operational cooperation between Europol and Interpol. The Court of Justice of the European Union systematically emphasises the priority of the principle of human rights, in particular in the field of processing and transferring personal data within the framework of cross-border information exchange. The jurisprudence demonstrates the consistent consolidation of the concept of shared responsibility between the EU institutions and international intergovernmental organisations that are not within the legal system of the Union but functionally interact with it. Application of the principle of proportionality in the implementation of operational and investigative measures, which requires a mandatory assessment of the necessity and legitimacy of each request, especially in the context of restricting the fundamental rights of a person, was emphasised. The court highlighted the obligation to conduct a preliminary legal analysis of the risks associated with possible human rights violations in the process of implementing Interpol requests. The court practice is aimed at strengthening the normative autonomy of EU law, even in cooperation with non-Union structures, which objectively requires bringing the relevant cooperation mechanisms correlates with the standards of the European legal system. Therefore, legal cooperation between Europol and Interpol should be based not only on international treaty regulation, but also within the framework of mandatory jurisdiction and regulatory requirements of EU law regarding personal data protection, effective remedies and legal certainty.

In the case of cooperation between Europol and Interpol, the level of legal certainty is complicated by the difference in the legal regimes within which these institutions operate. While Europol is subject to the EU regulatory framework, which is characterised by a high level of formalisation of procedures, Interpol operates within a more flexible system. This asymmetry can cause a violation of the principle of legitimacy, especially in the absence of clear mechanisms to monitor the observance of human rights in the transfer of data between organisations. This contradicts the generally recognised principles of international law, in particular the principle of respect for human rights, which is universal and applies regardless of the nature of the legal jurisdiction. According to the UN Human Rights Committee, a state cannot avoid international responsibility by transferring powers to third parties or participating in multilateral organisations.

In this regard, the requirement of transparency of decisions made in the course of joint operations is

of particular importance. Both Europol and Interpol are obliged to ensure an adequate level of documentation of operational actions, maintaining registers of requests, recording sources of information and independent control by authorised bodies. In the EU, the role of such authorities is played by national supervisory authorities for personal data protection and the European Data Protection Supervisory Authority, which have a mandate to verify that information processing complies with legal standards. Interpol, in turn, has a Commission for the Control of Interpol Files, but its powers are limited and the procedural transparency of its decisions is often questioned by human rights organisations. This imbalance in control mechanisms causes legal ambiguity, which can be interpreted as a violation of the rule of law.

Legal cooperation between Europol and Interpol is not self-sufficient, but must be assessed in terms of compliance with general international legal standards, in particular those enshrined in Articles 14 and 17 of the International Covenant on Civil and Political Rights¹. As both organisations have a de facto impact on the situation of individuals in the legal field, in particular by profiling, issuing wanted notices and coordinating arrests, their activities must meet the standards of necessity, proportionality and legality. The establishment of internal regulations does not relieve the parties from the obligation to comply with the peremptory norms that form the core of the modern international legal order.

In the context of aforementioned, one of the prospects for increasing the legitimacy and legal compatibility of inter-operational cooperation may be the codification of the international legal framework for such interaction. Currently, there is no universal document that would set minimum standards for cooperation between regional and global law enforcement agencies. The existing agreements between Europol and Interpol are mostly administrative in nature and are not legally binding on the participating states. Such circumstances create gaps in legal regulation that open the way to abuse, especially in situations where the disputed action is of a cross-border nature and is performed on the basis of aggregated data obtained from several sources. In this context, it is advisable to develop a framework international treaty that would regulate the forms of data exchange, standards of liability, procedures for reviewing decisions and mechanisms for compensating for damage caused by erroneous or unlawful actions.

From the view of public international law, such an initiative should be supported by the practice of concerted action by states that are already implementing operational cooperation within existing

¹ International Covenant on Civil and Political Rights. (1966, December). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

structures. A soft law mechanism, i.e. the development of common standards through resolutions, recommendations and codes of practice, could be the first step in the process of further codification. It is important that such documents meet the standards set by international courts and include guarantees of effective judicial protection, non-discrimination, presumption of innocence and the right to privacy. In the future, they may be transformed into binding international legal norms that will ensure a balance between security and human rights interests. In addition, the unification of international legal approaches to operational cooperation would eliminate differences in the interpretation and application of key concepts such as “operational information”, “international search”, and “cross-border threat”, which are currently interpreted differently in EU law and the Interpol system. This unification will not only contribute to the effectiveness of joint actions, but also to the legal protection of persons subject to operational measures. Legal clarity and certainty of procedures create the basis for predictability of law enforcement, which is a prerequisite for a stable international legal order. In conclusion, it should be noted that the legal compatibility of operational cooperation between Europol and Interpol with the principles of international law is achievable only if the requirements of legal certainty, transparency of decisions and control by independent bodies are met, as well as the gradual unification of the international legal framework for such cooperation. Ensuring legal compliance of these mechanisms with the basic standards of international law not only increases the effectiveness of combating transnational threats, but also ensures that the operational activities of law enforcement agencies do not contradict fundamental human rights.

■ Discussion

The results obtained indicate a significant asymmetry between Interpol and Europol as subjects of international police cooperation, in particular in terms of legal accountability and procedural security. Despite the key coordination role of Interpol, its limited legal regulation creates risks of abuse and human rights violations, especially in the context of politically motivated use of the organisation's mechanisms. Europol, on the other hand, demonstrates a higher level of legal certainty, but its activities are limited to the EU jurisdiction, which makes it difficult to fully engage globally. The results also highlight a lack of legal regulation of joint investigative operations, which creates both conflicts in determining responsibility and problems with ensuring the legal protection of personnel. This situation highlights the need to unify approaches to regulating transnational law enforcement. The findings are important not only for

academic discourse but also for the practice of developing new mechanisms of security cooperation.

J. Coyne (2022) and S. San (2022) viewed Interpol's activities as a positive example of global coordination of efforts to combat crime, but the above analysis shows a different picture. Despite Interpol's technical ability to ensure the rapid exchange of information between law enforcement agencies of different countries, the legal framework for this process remains fragmented, which creates risks to the observance of basic rights of individuals, in particular in matters of personal data processing, legal protection against abuse and opportunities for appeal. The assertions of the study are debatable, as they rely mainly on functional and organisational performance indicators, ignoring the complex legal issues of responsibility and control over the organisation's activities. The reason for this difference in approach may lie in the different focus of the research: while the above authors focus on the security aspect, the analysis is based on an interdisciplinary combination of the legal and institutional dimensions, which ensures a more comprehensive assessment of Interpol's activities in the context of compliance with international legal standards.

An analysis of Europol's functioning in the context of international cooperation has shown that, despite the expansion of the agency's regulatory framework, its ability to carry out full operational activities outside the EU remains limited. This is especially true in cases of information exchange with third countries, where legal conflicts over data protection and jurisdiction arise. The findings confirm that although Europol's powers have been expanded, its actual operational capabilities remain limited, especially outside the EU, where the political will of partner states is a crucial factor. These findings are only partially consistent with the approach of C. De Bolle (2020), T. Hoerber *et al.* (2021) and T. Wahl (2024), who interpret Europol as an organisation that is evolving into a full-fledged operational actor. The growth of the agency's formal functions, in particular enshrined in the new 2022 mandate to process large amounts of data and cooperate with the private sector, does not always translate into practical effectiveness. The difference in interpretation is likely due to a different focus: while these authors focus on internal institutional changes, our study focuses on the correlation between legal mechanisms and the agency's actual ability to act in the international context. In addition, the discrepancy may be explained by methodological differences: while T. Hoerber *et al.* (2021) relied on normative analysis, this study also uses empirical material on Europol's interaction with third countries, which identified several limitations of its autonomy in the interstate space.

S. Hufnagel (2021) and S. Robertson (2021) highlighted the difficulties in the legal positioning of Interpol in the context of the EU legal system, in particular the lack of institutional control, which indeed makes it difficult to ensure compliance with human rights standards when using Interpol mechanisms such as red notices. This assertion is supported by numerous examples where Interpol decisions, including arrest warrants, contradicted the case law of the European Court of Human Rights, especially in terms of protection against politically motivated persecution. However, the assertions are debatable in terms of the general unsuitability of Interpol for European cooperation: the analysis shows that the problem is not the lack of legal personality as such, but the lack of effectively institutionalised procedures for interaction with EU legal structures. The reason for the divergence in conclusions may lie in the different focus of the research: while the study highlighted the EU's legal autonomy and its conflict with Interpol's universal jurisdiction, our approach emphasises the potential for legal integration through the development of harmonised procedures for verifying requests and strengthening judicial review mechanisms.

The results of the study showed that in the area of operational cooperation, Europol demonstrates reduced flexibility and slower response to transnational challenges, especially in cases requiring quick decisions, such as cyberattacks or terrorist threats. This was attributed to a complex system of coordination with national authorities and a high level of institutional control that, while respecting the rule of law, limits the agency's functional mobility. These results are not fully consistent with the position of M. Schinina (2020) and J. Öberg (2021), who reasonably point to Europol's regulatory advantage due to clear legal mechanisms of control and accountability that meet EU standards. The conclusions drawn by the researchers are relevant in the field of legal regulation, but they do not take into account the practical limitations that arise in the process of implementing operational functions. The reason for the discrepancy is possibly determined by the differences in methodology: while the authors focus on the formal aspects of the rule of law, our study is also based on an empirical analysis of Europol's responsiveness. In this context, there is a need to rethink the appropriateness of a rigid normative model for an agency operating in a highly volatile threat environment.

The study determined that the legal uncertainty of the status of members of joint investigation teams poses significant risks to both institutional accountability and individual legal protection of employees, especially in the context of transnational jurisdiction and the lack of mechanisms for resolving liability disputes. These results are generally consistent with the findings of M.J. Kerrissey *et al.* (2021) and

D. Nidel (2025), who emphasise the difficulties arising from the unclear legal regulation of participation in JITs. The conclusions are balanced, as they correlate with the legal gaps identified in our analysis. However, in contrast to the above-mentioned studies, our research additionally demonstrates that there are already attempts within the European Union to bridge these gaps through specific initiatives, such as the updating of the framework provisions on joint investigation teams and the development of working protocols between Eurojust and national authorities. This extended the arguments of previous researchers by highlighting the gradual institutional evolution of cooperation mechanisms.

M. Brewczyńska (2022) and F. Morgenstern (2024) highlighted the balance between security and procedural fairness is extremely relevant, and the conclusions drawn by the authors are fully consistent with the results of the analysis. As the study of Interpol and Europol's cooperation practice shows, the problem of maintaining this balance is indeed the lack of a unified international standard that would regulate the limits of permissible use of information in operations involving different states. Both studies show that even in the context of joint operations, participating countries interpret the requirements for the lawfulness of data processing and transfer in different ways, which, in turn, affects the uniformity of application of the principles of fairness.

Critique by E. Aaronson & G. Shaffer (2021) and T.S.R.E. Board (2022) of political abuse by member states through Interpol mechanisms is quite relevant, as it is supported by numerous examples of the abuse of the Red Notice system for political persecution. These conclusions are consistent with the findings of this study, which demonstrate that certain authoritarian regimes use Interpol's tools to expand extrajudicial pressure. At the same time, the author's statement about the complete absence of safeguards seems too radical. The analysis shows a different picture: the problem is not the absence of mechanisms as such, but the limited effectiveness of their implementation in practice, especially in cases where requests come from countries with close political or economic ties to member states. The reason for the different interpretations lies in the discrepancy between formal rules and their applicability in terms of political expediency, which, in turn, calls into question the neutrality of the red notice system as a transnational enforcement tool.

The results of the study demonstrated that the fragmented regulatory environment in joint investigative actions does indeed create significant obstacles to the prompt exchange of evidence, access to information and procedural coherence. At the same time, it was found that such fragmentation does not preclude effective coordination: the Pandora and

EMMA cases demonstrate that successful inter-agency cooperation can be achieved through informal channels, flexible procedures and political support. These findings are generally consistent with the position of V. Terziev *et al.* (2021) and C. Riehle (2023), who rightly emphasise legal conflicts as a risk factor. However, in contrast to the somewhat unambiguous interpretation of the negative impact of regulatory uncertainty in their works, the presented approach demonstrates that such barriers can be partially compensated for by adaptive management decisions and accumulated institutional practices. The findings do not deny the theses presented in the literature but rather specify and expand them in an applied way.

F. Mouzakiti (2020) and M. Cini & N.P.S. Borragán (2022) emphasised that the lack of common legal terminology between EU jurisdictions makes it difficult to effectively communicate and carry out investigative actions within joint investigation teams. The data of the study confirm this thesis, as the analysis of cases of cooperation between law enforcement agencies of France, the Netherlands and Hungary in the framework of joint operations revealed significant difficulties in harmonising the concepts of evidence, the scope of operational autonomy and procedures for documenting it. The conclusions drawn by the researcher are quite relevant, as they illustrate the fundamental problem of harmonisation, which directly affects the effectiveness of cooperation. The results of the present study add to the argument by demonstrating that some Member States are already implementing translated legal glossaries and internal instructions to standardise terminology in cross-border transactions. This shows that the system is partially capable of self-correction even without centralised intervention.

The results of the study show that the international legal status of Interpol and Europol as actors in the field of combating transnational crime is formed according to different regulatory and institutional models, which reflects the differences between the global and regional levels of legal regulation. Despite the common goal of ensuring effective coordination of law enforcement efforts, these organisations face challenges related to the lack of unified legal mechanisms, asymmetries in control and regulatory accountability, and potential threats of political abuse. Their future effectiveness will largely depend on the ability of the international community to balance security requirements with respect for human rights principles and to develop common standards for the legal status of personnel, accountability procedures and information sharing. The success of the formation of a sustainable system of international law enforcement cooperation will depend on the coherence of legal approaches, mutual trust between states and the ability to adapt institutions to the new challenges of the digital age.

■ Conclusions

The study provides a systematic legal analysis of the mechanisms of cooperation between Europol and Interpol through the prism of the principles of the legal order of the European Union and public international law. The main focus is on the issues of legal compatibility of the legal frameworks of both organisations, as well as conflicts of jurisdiction arising in the course of cross-border police cooperation. Europol appears as an entity operating under strict legal regulation, subordinated to the EU institutional structure, while Interpol operates on the basis of an international treaty and autonomous administrative mechanisms. This leads to asymmetry in the regulatory framework for their interaction and creates grounds for legal fragmentation in the joint implementation of operational activities.

An analysis of the case law of the Court of Justice of the EU and the ECHR has demonstrated that there are conflicts between the standards of legal protection within the Union and the procedural flexibility of Interpol, which may lead to violations of fundamental rights, in particular the right to liberty, fair trial and protection of personal data. It is established that the administrative agreements between Europol and Interpol, although functionally effective, remain insufficiently formalised in terms of legal liability of the parties. The summary table of the comparative analysis confirms the existence of conceptual differences in the field of legal personality, accountability mechanisms and control standards, which makes it impossible to create a single legal regime of interaction. At the same time, empirical examples of cooperative operations have demonstrated the need to create consistent regulatory standards that would incorporate both EU human rights requirements and the international obligations of Interpol member states. The study of specific operations, such as Pandora and Emma, showed a high level of inter-agency coordination and real-time information exchange, but revealed a lack of unified procedures for the legal assessment of the data obtained and the legal status of suspects. These operations have been effective in detecting and preventing transnational crimes, but at the same time, uneven application of procedural safeguards has been observed, raising questions about legal certainty for those involved in the cooperation. This suggests the need to review the regulatory framework for such operations in light of the requirements of the European Charter of Fundamental Rights and ECHR standards.

The results obtained conceptualised the relations between Europol and Interpol as an example of multi-level legal interaction that is being formalised in the context of a tension between security imperatives and the rule of law. At the same time,

the study had certain limitations, including difficult access to the full texts of internal administrative agreements between Europol and Interpol, which limited the possibility of a deeper analysis of their legal nature and procedural detail. Further research could focus on the development of a legal mechanism for harmonising data transfer procedures and creating a joint risk assessment mechanism for information exchange.

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■ Conflict of Interest

None.

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Міжнародно-правовий статус оперативного співробітництва між Європолом та Інтерполом у боротьбі з транснаціональними загрозами безпеці

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■ **Анотація.** Оперативне співробітництво між Європолом та Інтерполом в умовах посилення транснаціональних загроз потребує критичного переосмислення його міжнародного правового статусу через наявні правові конфлікти, розбіжності в стандартах підзвітності й обмежену узгодженість повноважень. Мета дослідження полягала у визначенні рівня правової сумісності форм співробітництва між цими двома організаціями з принципами міжнародного права та нормами права Європейського Союзу. Методологічну основу становили формально-правовий, порівняльно-правовий та інституційний аналіз із використанням прецедентного права Суду Європейського Союзу та Європейського суду з прав людини. Встановлено, що правовий статус Європолу й Інтерполу суттєво відрізняється за інституційним характером, джерелами регулювання та механізмами зовнішнього контролю, що впливає на правову сумісність їх оперативної взаємодії. Аналіз спільних операцій, таких як «Емма» та «Опсон II», засвідчив, що відсутність єдиних процедур і нормативно-правової бази ускладнює забезпечення прозорості, підзвітності й дотримання правових стандартів. З'ясовано, що Європол обмежений нормами права Європейського Союзу, зокрема щодо захисту персональних даних і прав людини, натомість Інтерпол діє автономно, поза межами наднаціональної юрисдикції. Порівняльний аналіз прецедентного права Суду Європейського Союзу та Європейського суду з прав людини підтвердив необхідність уніфікації підходів до оцінювання законності оперативних заходів у межах транснаціонального співробітництва. Дослідження довело, що наявні правові конфлікти між системами Інтерполу та Європолу створюють ризики подвійної відповідальності та правової відповідальності, передусім у контексті стрімкого посилення транскордонних загроз. У висновках дослідження запропоновано розглянути перспективи кодифікації міжнародно-правової бази для спільних поліцейських дій як спосіб забезпечення правової визначеності й ефективності міжінституційної співпраці. Зазначено, що правова взаємодія між Європолом та Інтерполом потребує чіткого нормативного регулювання, що охоплює вимоги правової визначеності, юрисдикційної узгодженості та поваги до основних прав. Практичне значення дослідження зумовлено формуванням концептуальної основи для розроблення єдиних міжнародних правових механізмів контролю, обміну інформацією та відповідальності у сфері спільної оперативної діяльності

■ **Ключові слова:** суд; захист даних; конфлікт; легітимність; юрисдикція; компетенція