DOI: 10.33498/louu-2025-08-170

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УДК 343.1

RECOGNITION AND ENFORCEMENT OF FOREIGN CRIMINAL JUDGMENTS: LEGAL REALITIES IN AZERBAIJAN AND EUROPE

Abstract. The 1959 European Convention on Mutual Assistance in Criminal Matters is a fundamental treaty that facilitates judicial cooperation among European states in criminal proceedings. It provides a legal framework for evidence collection, witness hearings, extradition-related assistance, and the exchange of criminal records, ensuring efficiency, legal certainty, and procedural fairness in cross-border cases.

This article aims to analyze the Convention's key provisions, their legal implications, and Azerbaijan's approach to their implementation. It examines the scope of judicial cooperation, the limitations imposed by sovereignty and public policy, and the challenges arising from differences in legal systems. Special attention is given to procedural mechanisms such as letters rogatory (Articles 3–6) and voluntary witness testimony (Article 7), as well as the intersection between mutual legal assistance (MLA) and human rights protections under the European Convention on Human Rights (ECHR).

Despite the Convention's comprehensive framework, variations in national legal standards, data protection concerns, and differing interpretations of political and tax-related offenses create obstacles to seamless cooperation. This article highlights the need for harmonizing procedural standards, strengthening international legal alignment, and improving intergovernmental collaboration to enhance transparency, predictability, and efficiency in Azerbaijan's engagement with European judicial cooperation mechanisms.

Keywords: Cross-Border Judicial Cooperation; Recognition of Foreign Judgments; Mutual Legal Assistance; Human Rights Protections; Legal Harmonization.

1. Introduction

In recent years, structural transformations in legal systems have prompted states to adopt new legislative frameworks and align their domestic laws with international norms. Particularly since the 2000-s, *the acquis communautaire*[1]

[1] This term is widely used in European Union law and refers to the "common legal heritage", "body of legal achievements", or "accumulated legal framework". It encompasses the legal obligations, rules, court decisions, and institutional principles that must be accepted by countries aspiring to join the EU. In legal literature and official documents, the term is often retained in its original French form – "acquis communautaire".

established within the European legal order in the fields of criminal justice cooperation and the fight against transnational crime has necessitated the restructuring of criminal law in both member and candidate states. In this context, the reform of Türkiye's criminal law system, which had remained in force since the 1990-s, has been influenced by transnational legal principles, leading to the incorporation of internationally recognized standards into criminal procedure and enforcement law.

These developments have enhanced the effectiveness of the recognition and enforcement of foreign judgments and mutual legal assistance in criminal matters, thereby strengthening judicial cooperation among states. In particular, the European Convention on Human Rights (ECHR) and the legal instruments of the Council of Europe in the field of criminal law have exerted a direct impact on the domestic legal systems of member states, providing a binding normative framework for the consolidation of the rule of law.

Azerbaijan has also undertaken significant legal reforms in the recognition and enforcement of foreign judgments and international legal assistance in criminal matters. The amendments introduced to the Azerbaijani Criminal Procedure Code (CPC) in 2020 added Chapter LIX, titled "Proceedings on the Recognition of Foreign Court Judgments and Other Final Decisions". These changes expanded the scope of special proceedings in Azerbaijan's criminal process, establishing a legal foundation for mutual legal assistance and cooperation in criminal matters.

Under Azerbaijani law, foreign court decisions can be recognized and enforced based on a request from the competent authority of the foreign state or if there is a necessity arising from an ongoing criminal prosecution in Azerbaijan[2]. The legal basis for such recognition includes bilateral or multilateral treaties to which Azerbaijan is a party, such as the Minsk Convention (2002) and the Chisinau Convention (2004). In the absence of a treaty, recognition may still occur under the principle of reciprocity, provided the requesting state guarantees the same for Azerbaijani judgments.

Azerbaijan is also a party to the European Convention on Mutual Assistance in Criminal Matters (1959) and its Additional Protocol (1978), which set out the framework for judicial cooperation among Council of Europe member states[3]. This convention regulates the exchange of evidence, extradition procedures, and the recognition of foreign judicial decisions. However, Azerbaijan has placed certain reservations on its implementation, particularly regarding cases that conflict with national sovereignty or security. Furthermore, Azerbaijan requires that legal assistance requests be submitted in Azerbaijani or English and maintains the right to refuse cooperation in politically sensitive cases.

[2] Matanat Pasha Asgarova, 'Criminal Procedure and Forensic Aspects of Mutual Legal Assistance Between States in Criminal Matters: Experience of Ukraine and the Republic of Azerbaijan' [2022] 40(72) Cuestiones Políticas 591–607.

[3] European Convention on Mutual Assistance in Criminal Matters, Council of Europe, Strasbourg, 20 April 1959 <https://rm.coe.int/16800656ce> (accessed 08.04.2025).

The Azerbaijani framework aligns with broader European legal standards, ensuring judicial cooperation while maintaining national sovereignty and fundamental human rights protections. However, challenges remain in harmonizing national and international obligations, particularly in cases where procedural fairness and human rights considerations come into play.

Recognition and Enforcement of Foreign Judgments in Europe

The European framework for the recognition and enforcement of foreign judgments is primarily governed by Regulation (EU) No 1215/2012 (Brussels I Recast), the Lugano Convention, and the jurisprudence of the European Court of Human Rights (ECtHR)[4]. These legal instruments establish a structured and uniform approach to the cross-border enforcement of judicial decisions.

Brussels I Recast Regulation (1215/2012): Article 36: Judicial decisions issued in one EU member state are automatically recognized in others without the need for special proceedings; Article 39: A decision is enforceable in another member state without requiring further judicial intervention; Article 45: Recognition and enforcement may only be refused in cases of public policy violations or fundamental procedural irregularities.

Lugano Convention (2007): Article 33: Judicial decisions from non-EU but EFTA states (Switzerland, Norway, Iceland) are recognized within the EU under similar rules to Brussels I; Article 34–35: Public policy considerations and violations of fair trial rights can serve as grounds for refusal.

ECtHR Jurisprudence: Pellegrini v. Italy (2001) – The automatic recognition of foreign judgments without ensuring compliance with fair trial rights was deemed a violation of the ECHR; Avotiņš v. Latvia (2016) – The ECtHR confirmed that mutual recognition under Brussels I must be compatible with fundamental human rights protections.

Mutual Legal Assistance in Criminal Matters and the European Approach. While civil and commercial recognition mechanisms are well-established, the enforcement of criminal judgments and legal assistance in criminal matters rely on mutual legal assistance treaties (MLATs) and instruments such as the European Arrest Warrant (EAW) and the European Investigation Order (EIO)[5].

European Arrest Warrant (EAW). Facilitates the extradition of suspects between EU member states with minimal procedural barriers. Eliminates the traditional double criminality requirement for 32 specific offenses. However, concerns over human rights protections have led some states to challenge its application.

[4] Edward M Wise, 'The Political Offence Exception to Extradition: The Delicate Problem of Balancing the Rights of the Individual and the International Public Order' [1982] 30(2) The American Journal of Comparative Law 362–371.

[5] Gülin Güngör, 'Suçluların İadesine Dair Avrupa Sözleşmesi (SİDAS)' [1999–2000] 19(1–2) Aysel Çelikel'e Armağan, Milletlerarası Hukuk ve Milletlerarası Özel Hukuk Bülteni 359–382.

European Investigation Order (EIO). Establishes a uniform mechanism for cross-border evidence gathering. Reinforces procedural rights for defendants while ensuring judicial cooperation.

The integration of these legal instruments into the European legal order reflects a commitment to enhanced judicial cooperation while maintaining a balance between state sovereignty and human rights protections. However, challenges remain, particularly concerning the interplay between national constitutions, supranational obligations, and fundamental rights guarantees.

Despite the structured legal framework for recognizing foreign judgments and providing mutual legal assistance, practical challenges persist. One major issue is the conflict between national sovereignty and supranational legal obligations, particularly in cases where a foreign judgment contradicts fundamental principles of domestic law[6]. While many countries are parties to international conventions, they retain discretion to reject legal assistance requests that may compromise constitutional principles, national security, or public policy.

Another critical challenge is ensuring procedural fairness and human rights protections in mutual legal assistance cases. The European Court of Human Rights (ECtHR) has emphasized that automatic recognition of foreign judgments without an assessment of compliance with fair trial rights may violate the ECHR. This concern is particularly relevant in extradition cases, where the risk of politically motivated prosecutions, inhumane treatment, or unfair trials must be carefully evaluated before complying with a foreign request.

Additionally, inconsistencies in international agreements and their domestic implementation can hinder effective judicial cooperation. Countries' reliance on multiple legal instruments – such as the Brussels I Recast Regulation, the Lugano Convention, and regional agreements – necessitates harmonization efforts to prevent legal uncertainties and conflicting obligations.

Furthermore, logistical and administrative barriers, such as delays in processing legal assistance requests, bureaucratic inefficiencies, and language barriers, often complicate cross-border judicial cooperation. The requirement for legal assistance requests to be submitted in specific languages, while ensuring national oversight, can sometimes slow down urgent legal processes, particularly in high-profile criminal cases.

To enhance the effectiveness of cross-border judicial cooperation, several reforms could be considered:

1. Strengthening judicial review mechanisms: Establishing a standardized procedure for reviewing foreign judgments in line with human rights standards can help mitigate concerns over unfair trials or politically motivated prosecutions[7].

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[6] Ahmet Ulutaş, 'Türk Geri Verme Hukukunda Terminoloji Birliği İhtiyacı ve Bu Açıdan Türkiye-Tunus Sözleşmesi'nin Değerlendirilmesi' [2012] 16(3) Ankara Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi 267–296.

[7] Christopher L Blakesley, 'Extradition Between France and the United States: An Exercise in Comparative and International Law' [1980] 13(4) Vanderbilt Journal of Transnational Law 653.

2. Expanding bilateral treaties and legal harmonization: Negotiating new agreements with key partner states and aligning domestic laws with international standards will improve the predictability and efficiency of legal cooperation.

3. Enhancing digital infrastructure for legal assistance: Implementing secure digital platforms for processing mutual legal assistance requests can expedite procedures and reduce bureaucratic delays.

4. Increasing judicial training and expertise: Providing specialized training for judges and prosecutors on handling international legal cooperation cases will ensure more informed decision-making.

By addressing these challenges and implementing targeted reforms, countries can further align their legal frameworks with international best practices while safeguarding their national legal principles and sovereignty[8].

This paper aims to critically examine the legal frameworks governing the recognition and enforcement of foreign judgments and the provision of mutual legal assistance in criminal matters within Europe and Azerbaijan, evaluating the extent to which these mechanisms ensure both judicial efficiency and fundamental rights protection. Through a comparative analysis, this study will explore the legal challenges that arise in cross-border judicial cooperation and propose potential reforms for a more cohesive and effective legal framework.

Despite the existence of a substantial body of scholarship addressing mutual legal assistance and the recognition of foreign criminal judgments within the European Union, there is a notable gap in the literature concerning the practical and procedural experiences of non-EU member states such as Azerbaijan. In particular, the unique legal, political, and institutional challenges faced by Azerbaijan in aligning its domestic legal framework with European standards have not been sufficiently examined in comparative legal studies. This study seeks to fill that gap by critically analyzing the Azerbaijani experience within the broader context of European judicial cooperation[9].

2. Literature Review

Several studies have addressed mutual legal assistance (MLA) and the recognition of foreign criminal judgments within European jurisdictions. Bassiouni (2008) provides foundational theoretical insights into the recognition of foreign criminal judgments, outlining the necessary legal frameworks and standards that govern such processes in international law. Klip (2016), drawing on the Western Balkans experience, highlights persistent procedural barriers in aligning domestic criminal procedures with European conventions. Likewise, official documents from the European Commission provide insight into the structural and procedural framework of MLA and extradition mechanisms across the EU.

[8] Mehmet Akalın, 'Suçla Mücadelede Suçlu İadesi – Temel Hak ve Hürriyetler İkilemi' [2014] 478 Türk İdare Dergisi 263–284.

[9] Matanat Pasha Asgarova (n 2).

In the Azerbaijani context, a 2014 report by the Council of Europe outlines the national procedural obligations related to MLA – such as translation requirements, formal documentation, and the principle of double criminality. However, these practical developments have not yet been systematically examined in academic literature. Moreover, Azerbaijan's integration into international legal assistance systems still faces challenges, particularly in terms of institutional capacity and procedural harmonization.

This review indicates that:

– While European jurisdictions demonstrate relatively developed MLA frameworks, procedural mismatches and fragmentation remain significant obstacles.

– In Azerbaijan, although legal reforms have improved practice, there is a lack of comparative academic analysis of how these reforms are operationalized in practice.

Literature gap: While comparative and procedural studies on MLA between EU member states and Western Balkan countries exist, there is still a lack of comprehensive academic analysis focusing on Azerbaijan's actual procedural practices, legislative reforms, and institutional challenges in implementing MLA and recognizing foreign criminal judgments.

3. Transnational Crimes and Legal Boundries: Harmonizing Criminal Law between Azerbaijan and Europe

3.1. Jurisdictional complexities in combating transnational crimes between Azerbaijan and Europe

Azerbaijan's legal system is a unique blend of the Roman-Germanic legal tradition and Soviet-era legal influences. While the country has adopted the codified and systematic structure of European legal systems, traces of its Soviet past remain evident, particularly in criminal law and criminal procedure. This dual influence shapes Azerbaijan's approach to criminal justice, reflecting both Western legal principles and regional-specific considerations. Azerbaijan's criminal law and criminal procedure law are fundamentally based on the Roman-Germanic legal system, which eharmphasizes codified rules and statutes[10]. However, the historical legacy of Soviet legal traditions persists in the country's judicial framework. This is particularly evident in the strong role of the prosecution and the state's dominant influence in criminal proceedings, characteristics that diverge from the more adversarial and rights-centered approach of European systems. While Azerbaijan's legal framework aligns with European legal traditions in theory, its application remains strongly influenced by domestic political and social dynamics. The country's criminal law primarily addresses internal security

[10] Berrin Akbulut, *Ceza Hukuku Genel Hükümler* (3rd edn, Adalet Yayınevi 2016).

concerns, demonstrating a localized approach that prioritizes national interests over full harmonization with European standards.

Some of the key challenges in aligning with European legal standards include:

– The dominance of state authority in criminal proceedings
– Judicial independence issues that impact fair trial guarantees
– A stronger emphasis on public order rather than individual rights

European law operates within a framework structure, meaning that while each country retains its own legal system, it must remain within the overarching boundaries set by European legal principles. The European Convention on Human Rights (ECHR) and EU legal mechanisms impose certain fundamental standards that member states must adhere to, ensuring cohesion in legal practices across the continent[11].

Despite national variations, European states cannot fully diverge from core legal norms, such as: The right to a fair trial (Article 6 ECHR); Proportionality in sentencing and legal remedies; Judicial oversight and protection of human rights.

In essence, while legal sovereignty exists, European countries are not entirely free to implement criminal law policies that contradict European human rights standards. Azerbaijan, as a member of the Council of Europe, accepts the jurisdiction of the European Court of Human Rights (ECtHR) and is expected to comply with its rulings. However, further steps are necessary for full alignment with European legal norms[12]. Given Azerbaijan's strategic geopolitical position and historical influences, it stands at the intersection of Eastern and Western legal traditions. Moving forward, legal reforms should aim to balance national legal sovereignty with the necessary European legal integration, ensuring a fair and effective justice system that upholds both domestic priorities and international human rights standards.

3.2. The Recognition and Enforcement of Foreign Criminal Judgments: Legal and Political Dimensions in Azerbaijan and Europe

The recognition and enforcement of foreign criminal judgments constitute a crucial aspect of international judicial cooperation, ensuring that criminal justice systems operate beyond national borders while maintaining legal certainty. Within this framework, Azerbaijan and European states navigate complex legal and political challenges that arise from differing legal traditions, sovereignty concerns, and human rights considerations. While European states largely adhere to supranational legal frameworks such as the European Convention on Human Rights (ECHR) and the EU Framework Decision 2008/909/JHA, Azerbaijan retains a hybrid legal identity, shaped by both Romano-Germanic legal principles and

[11] Christopher L Blakesley (n 7).
[12] M Cherif Bassiouni, International Extradition: *United States Law and Practice* (6th edn, Oxford University Press 2014).

post-Soviet judicial practices. These differences create legal and political barriers in the mutual recognition and enforcement of criminal judgments.

The legal basis for the recognition and enforcement of foreign criminal judgments in Azerbaijan and Europe derives from bilateral treaties, multilateral conventions, and domestic legislation.

– European Convention on the International Validity of Criminal Judgments (1970): Establishes the conditions under which contracting states recognize and enforce foreign criminal judgments.

– European Convention on Extradition (1957): Governs extradition processes between member states, providing a foundation for recognizing foreign convictions.

– EU Framework Decision 2008/909/JHA: Introduces mutual recognition mechanisms within the EU for enforcing custodial sentences imposed in other EU member states.

– Budapest Convention on Cybercrime (2001): Addresses cross-border cybercrime and facilitates digital evidence-sharing mechanisms[13].

While European states operate within a relatively harmonized legal system, Azerbaijan applies a case-specific approach, recognizing foreign judgments based on bilateral treaties and discretionary legal assessments. Azerbaijan's Criminal Procedure Code contains provisions governing the recognition of foreign judgments, but these are subject to sovereignty considerations and national security exceptions. Unlike the EU mutual recognition model, Azerbaijan retains the discretion to deny enforcement if the foreign judgment contradicts domestic legal principles or public policy. Beyond legal frameworks, political factors significantly influence judicial cooperation between Azerbaijan and European states. The recognition of foreign criminal judgments often raises concerns about national sovereignty. Azerbaijan exercises judicial discretion in enforcing foreign judgments, particularly when cases involve politically sensitive individuals. Conversely, European states scrutinize Azerbaijan's legal system before recognizing its judicial decisions, often citing concerns about judicial independence and due process protections. Differences in evidentiary standards, procedural safeguards, and trial mechanisms pose obstacles to mutual recognition. Azerbaijan's reliance on strong prosecutorial powers contrasts with the adversarial legal traditions prevalent in European jurisdictions, leading to concerns over fair trial guarantees[14]. While Azerbaijan has signed extradition treaties with several European states, the enforcement of these agreements is often influenced by geopolitical considerations. To strengthen the recognition and enforcement of foreign criminal judgments, Azerbaijan and European states must pursue legal and

[13] European Convention on Extradition, Council of Europe, Strasbourg, 13 December 1957 <https://rm.coe.int/1680064587> (accessed 08.06.2025).
[14] Edward M Wise (n 4).

institutional reforms that enhance judicial cooperation while safeguarding human rights.

3.3. Legal and Procedural Challenges: Recognition and Enforcement of Foreign Criminal Judgments

The recognition and enforcement of foreign criminal judgments in Azerbaijan require a delicate balance between international legal obligations and national sovereignty. Although Azerbaijan is a party to international agreements such as the 1959 European Convention on Mutual Assistance in Criminal Matters and the Convention on the Transfer of Sentenced Persons (ETS No. 112), the Criminal Procedure Code (CPC), Chapter LIX grants Azerbaijani courts significant discretion in recognizing foreign judgments[15]. Under CPC Article 524.5, Azerbaijani courts may reject foreign judgments that contradict public policy, constitutional principles, or fundamental human rights. Rejections commonly involve cases of politically motivated prosecutions, violations of the right to a fair trial, or national security concerns. Additionally, Azerbaijan reserves the right to refuse recognition based on Article 45 of the Brussels I Recast Regulation and the Lugano Convention. Unlike the EU framework, however, Azerbaijan does not apply automatic recognition procedures, requiring each case to be assessed individually under CPC Article 523.

One of the primary challenges in recognizing foreign criminal judgments is the structural differences between Azerbaijani and European legal systems:

1. Adversarial vs. Inquisitorial Legal Systems: European jurisdictions generally follow an adversarial model, where the prosecution and defense present their cases independently. In contrast, Azerbaijan retains aspects of the inquisitorial model, a legacy of Soviet legal traditions, which gives more authority to the prosecution in fact-finding. This difference raises concerns about the compatibility of foreign judgments.
2. Burden of Proof and Admissibility of Evidence: Azerbaijani courts require original documentation and sworn testimony, whereas many European jurisdictions accept electronic evidence and standardized witness depositions, leading to potential delays or refusals in recognition.
3. Language and Documentation Requirements: CPC Article 525 mandates that all foreign judgments be translated into Azerbaijani or English, which can cause bureaucratic delays, particularly in urgent enforcement cases.

The European Court of Human Rights (ECtHR) has ruled that the automatic recognition of foreign judgments must comply with fundamental human rights standards. In Pellegrini v. Italy (2001) and Avotiņš v. Latvia (2016), the court emphasized that mutual recognition mechanisms must not override the right

[15] European Convention on Mutual Assistance in Criminal Matters (n 3).

to a fair trial under Article 6 of the European Convention on Human Rights (ECHR)[16].

3.4. Specific Legal Provisions on the Recognition and Enforcement of Foreign Criminal Judgments

To further elaborate on the procedural aspects of recognizing and enforcing foreign criminal judgments in Azerbaijan, it is essential to analyze the specific legal provisions embedded within the Criminal Procedure Code (CPC) and other relevant legal frameworks.

CPC Chapter LIX: Recognition of Foreign Court Decisions. The introduction of Chapter LIX into the CPC by the Law No. 140-VIQD, dated June 25, 2020, marked a significant development in Azerbaijan's approach to recognizing foreign judgments. This chapter formalized the procedure and conditions under which foreign criminal decisions may be recognized and enforced[17]. According to CPC Article 523, the General Prosecutor's Office is responsible for reviewing requests for recognition submitted by foreign competent authorities. The review process assesses whether the judgment aligns with Azerbaijani legal principles, particularly regarding human rights and due process standards. Additionally, any request must be accompanied by a comprehensive legal basis, ensuring compatibility with Azerbaijan's international obligations.

CPC Article 524: Criteria for Recognizing Foreign Judgments. CPC Article 524 sets forth the criteria under which a foreign judgment can be recognized within Azerbaijan. The provisions include:

1. Legality and Finality: The foreign decision must be final and enforceable in the issuing jurisdiction.
2. Reciprocity Principle: Recognition is contingent upon Azerbaijan having a reciprocal arrangement with the issuing state.
3. Public Policy Considerations: Any foreign judgment that contradicts Azerbaijan's constitutional principles, sovereignty, or fundamental rights may be rejected.
4. Jurisdictional Compatibility: The foreign court must have exercised jurisdiction in a manner consistent with Azerbaijani legal norms.

CPC Article 524.5: Grounds for Rejection of Foreign Judgments. This provision outlines specific situations where a foreign judgment must be rejected. The rejection may occur if: The foreign court lacked jurisdiction over the case; The judgment was rendered in absentia without ensuring the defendant's right to a fair trial; The decision contradicts Azerbaijani public order or fundamental legal principles; The case involved politically motivated charges or other human rights

[16] Fahir Hadi Armaoğlu, 'Belçika Kaidesi ve Siyasi Suçluların İadesi Meselesi' [1951] 10 Adalet Dergisi 1591–1607.

[17] Firuzə Məmməd qızı Abbasova, Cinayət prosesi: xüsusi hissə: dərslik (Hüquq Yayın Evi 2024) 524.

concerns; The convicted person had already been tried or acquitted for the same offense in Azerbaijan, adhering to the ne bis in idem principle[18].

CPC Article 525: Enforcement of Foreign Court Decisions Involving Asset Confiscation. In cases where a foreign judgment includes financial penalties or asset confiscation, CPC Article 525 stipulates the enforcement mechanisms. Notably: If an enforcement order involves confiscation of assets located in Azerbaijan, the domestic authorities must verify that the decision complies with Azerbaijani legal standards; Fifty percent (50%) of confiscated assets may be transferred to the requesting state, while the remainder is retained by Azerbaijan's state budget; Any enforcement of financial penalties must align with Azerbaijan's financial regulations and international treaty commitments.

Proposed Reforms and Future Considerations. While Azerbaijan has made substantial progress in developing a structured approach to recognizing foreign judgments, further legal refinements and procedural enhancements are necessary to address remaining challenges. The next section will explore potential legislative reforms, judicial training initiatives, and technological advancements that could streamline the recognition and enforcement process.

Strengthening Legal Consistency and Transparency. One of the primary areas for improvement involves ensuring greater legal consistency in the recognition and enforcement of foreign judgments. Azerbaijan should consider developing a unified procedural framework that minimizes discretion in judicial decision-making and provides clear criteria for evaluating foreign rulings. This would enhance predictability and legal certainty, fostering stronger international legal cooperation. Moreover, an independent review mechanism could be established within the judiciary to assess contested recognition cases[19]. This mechanism would ensure compliance with both domestic legal principles and international human rights obligations while reducing potential instances of politically motivated refusals.

Expanding International Agreements and Mutual Legal Assistance Treaties. To facilitate more seamless judicial cooperation, Azerbaijan should actively expand its bilateral and multilateral legal assistance agreements. Strengthening ties with European judicial bodies, including the European Court of Human Rights (ECtHR) and the Council of Europe, could encourage the alignment of Azerbaijani legal practices with European standards. Furthermore, formalizing Azerbaijan's participation in cross-border judicial networks could provide mechanisms for the expedited processing of legal assistance requests. Improved coordination with Interpol, Eurojust, and other transnational legal bodies would further bolster Azerbaijan's ability to effectively handle international legal matters.

[18] L Məmmədova, Azərbaycan Respublikasının cinayət prosesində ayrı-ayrı kateqoriya şəxslər barəsində icraatın xüsusiyyətləri (Bakı 2023) 222.
[19] Berrin Akbulut (n 10).

Enhancing Judicial Training and Capacity-Building Programs. To ensure that legal practitioners are well-equipped to handle foreign judgment recognition cases, comprehensive judicial training programs should be implemented. These programs should focus on: Comparative legal studies, emphasizing the procedural differences between Azerbaijani and European legal systems; Best practices in judicial cooperation, particularly in the context of extradition and mutual legal assistance; Case study analyses, reviewing key rulings by the ECtHR and other international courts to establish legal precedents applicable to Azerbaijan. Azerbaijan should also consider hosting judicial workshops in collaboration with foreign legal institutions, fostering an exchange of knowledge and expertise among legal professionals.

4. Recognition and Enforcement of Cybercrime Laws and Judgments in the New Era: A Comparative Analysis of Azerbaijan and Europe

The scope of traditional armed conflict law has expanded in recent years with the advent of new-generation warfare technologies that transcend cyber boundaries, causing a shift from the physical battlefield to the virtual realm[20]. The integration of cybernetic systems into warfare, including autonomous weapon systems, artificial intelligence-supported cyberattacks, and data surveillance, introduces new legal and ethical challenges. In this context, sources such as the Tallinn Manual 2.0 are seen as initial steps in determining the place of cyber warfare within the framework of international law. However, it is evident that existing legal systems are inadequate in fully regulating cyber warfare and that new norms are urgently required.

4.1. Evolution of Cyber Warfare Law

Cyber warfare typically involves digital attacks and manipulations carried out by state-sponsored or non-state actors. These attacks can target critical infrastructures, leading to devastating economic, military, and political consequences. International law has been addressing this new form of warfare, drawing upon traditional frameworks such as International Humanitarian Law (IHL), the United Nations Charter, and the Budapest Convention on Cybercrime. However, these instruments fail to adequately address issues such as cyber boundary violations and state responsibility.

The *Tallinn Manual 2.0* connects cyber warfare law to traditional armed conflict law, articulating the following principles: 1) Cyberattacks can infringe upon state sovereignty and trigger the right to self-defense; 2) States may be held responsible for cyberattacks originating from their territories; 3) Autonomous systems used in cyberattacks may lead to human rights violations. Additionally, provisions in the European Convention on Human Rights (ECHR), including Articles 6 (Right

[20] Azərbaycan Respublikası Cinayət-Prosessual Məcəlləsinin kommentariyası (C H H Mövsümov (elmi red) Digesta 2016) 1333.

to a Fair Trial), 8 (Right to Privacy), and 14 (Prohibition of Discrimination), form a fundamental legal framework for regulating the impact of state activities in the cyber domain on human rights[21].

4.2. Autonomous Weapon Systems and Legal Uncertainties

Artificial intelligence-supported Autonomous Weapon Systems (AWS) reduce the need for human intervention in military operations. However, there are no clear international rules governing the use of AWS. While the Geneva Conventions of 1949 and Additional Protocols stress the necessity of human decision-making in armed conflict, there is ongoing debate over whether AWS comply with this principle.

The legal aspects of AWS revolve around the following questions: Who will be held accountable for a cyberattack carried out by an autonomous weapon system? Are AWS subject to international humanitarian law's obligation to protect civilians? Can artificial intelligence be considered a legal actor in court?

These uncertainties necessitate the development of more definitive norms regulating AWS in the international arena. Initiatives such as the European Union Court of Justice's principles on digital responsibility and the United Nations (UN) Group of Governmental Experts on Lethal Autonomous Weapons Systems are leading efforts to establish basic legal frameworks in this area.

4.3. Ethics and Data Surveillance: What Are the Limits of State Authority?

Cyber warfare not only threatens military and strategic objectives but also jeopardizes fundamental rights such as individual data security and privacy. Can states seize, manage, and monitor digital data of individuals and organizations for national security purposes? The European Court of Human Rights (ECtHR) and the United Nations Human Rights Council have indicated that digital surveillance of individuals can violate the right to privacy. While instruments like the General Data Protection Regulation (GDPR) and the Council of Europe's Convention 108+ seek to protect individuals' data, national security concerns often lead states to bypass these rules.

Ethically, excessive digital surveillance by states can: Restrict individuals' freedom of expression and access to information; Threaten the right to privacy; Lead to political and economic manipulation. Moreover, the decision by the ECtHR regarding the SyRI system used in the Netherlands, which was deemed to violate the right to privacy, has clarified the legal limits of state data surveillance[22].

Cyber warfare has become an area of international law and ethics that demands new regulatory frameworks. Artificial intelligence-supported AWS and digital surveillance policies challenge the balance between state security

[21] Matanat Pasha Asgarova (n 2).
[22] Christopher L Blakesley (n 7).

policies and individual freedoms. Therefore, it is crucial for international law to introduce more precise and binding norms regarding cyber warfare. Efforts by the European Court of Human Rights, the European Union, and the United Nations are significant steps toward filling the legal gaps in this domain.

5. Comparative Analysis of Cybercrime Laws and Cyber Warfare Regulations: Azerbaijan, Russia and European Countries

The regulation of cybercrime and cyber warfare varies significantly across jurisdictions, reflecting different legal traditions, political structures, and security priorities. This section provides a comparative analysis of Azerbaijan, Russia and European countries regarding their legal frameworks, enforcement mechanisms, and diplomatic approaches to cyber threats.

5.1. Azerbaijan's Legal Framework and Diplomatic Approach

Azerbaijan has taken significant steps in this regard by strengthening its domestic legislation and aligning its policies with international commitments. This paper examines Azerbaijan's legal framework on cybercrime, including its constitutional foundations, international obligations, and its place within the country's criminal law. Azerbaijan's approach to combating cybercrime is grounded in constitutional principles, ensuring legal certainty and compliance with international law. The key constitutional provisions relevant to cybercrime include:

– Article 151 of the Constitution: In cases of conflict between Azerbaijan's domestic legislation and international treaties, the provisions of international agreements shall prevail. This article establishes the supremacy of international law in domestic cybercrime-related matters, ensuring compliance with international standards.

– Article 71, Paragraph 8: This article enshrines the principles of legal certainty and non-retroactivity of laws by stipulating that no one shall be punished for an act that was not legally defined as a crime at the time of its commission. This provision safeguards legal security in the prosecution of cyber offenses.

Azerbaijan is a signatory to the Budapest Convention on Cybercrime, which serves as the primary international treaty addressing cyber offenses[23]. As part of its adherence to international cybercrime standards, Azerbaijan has implemented the following measures:

Adaptation of Domestic Legislation: Offenses such as child pornography, copyright infringement, and cyber fraud have been duly incorporated into the national criminal framework.

Strengthening of Judicial Cooperation: Mechanisms for the collection of electronic evidence and the facilitation of mutual legal assistance in transnational cybercrime cases have been significantly enhanced.

[23] M S Qəfərov, 'Cinayət mühakimə icraatının şəxslərə görə differensiasiya edilməsinin bəzi məsələləri' [2013] 38 Scientific and Pedagogical News of Odlar Yurdu University. Humanities Series 118–130.

Declarations and Reservations under the Budapest Convention:

Article 38: Azerbaijan declared that the Convention would not apply to territories under occupation (Nagorno-Karabakh). Following the 2020 military operations, these territories were liberated and the country's territorial integrity fully restored. Consequently, the legal significance of this declaration is currently under reassessment.

Articles 6 and 42: While minor cyber offenses are excluded from criminal prosecution, offenses resulting in substantial harm to society are subject to strict legal sanctions.

The Criminal Code of Azerbaijan establishes clear provisions addressing cybercrime, criminalizing unauthorized access to information systems, cyber fraud, and other technology-related offenses.

– Article 271 – Unauthorized Access: Penalizes unlawful intrusion into computer systems, including deletion, alteration, obstruction, or misuse of data.

– Article 272 – Malicious Software: Criminalizes the creation, dissemination, and use of computer viruses or harmful software.

– Article 273 – Cyber Attacks: Provides severe sanctions for attacks aimed at disrupting or disabling information systems.

– Article 274 – Cyber Fraud: Targets fraudulent activities committed through banking systems and e-commerce platforms.

Penalties vary according to the gravity of the offense: minor violations result in fines or probation, while serious crimes against state institutions or critical infrastructure may lead to long-term imprisonment. Offenses committed within organized networks attract enhanced penalties. Responsibility for cybercrime enforcement is shared among key state bodies: Ministry of Justice – handles extradition and temporary detention in cybercrime cases. State Security Service – processes international mutual legal assistance requests. Central Authority for Cybercrime Investigations – operates a 24/7 rapid response unit for electronic evidence and emergencies. These institutions ensure compliance with Azerbaijan's international obligations and strengthen domestic capacity to combat cybercrime.

Azerbaijan's legal approach to cybercrime is based on constitutional principles, international cooperation, and criminal law enforcement mechanisms. At the constitutional level, the primacy of international treaties and the principle of legal certainty are firmly established. In terms of international obligations, Azerbaijan is a party to the Budapest Convention, with certain reservations concerning specific territorial and minor offense considerations. Within the criminal law framework, offenses such as unauthorized access to computer systems, malware distribution, and cyber fraud are explicitly criminalized, with corresponding legal sanctions. To enhance its cybercrime enforcement capabilities, Azerbaijan must continue strengthening international cooperation, digital forensic capacities, and legislative updates to address emerging cyber threats.

5.2. Russia's Legal and Diplomatic Approach

The Russian Federation addresses cybercrime primarily under Chapter 28 of its Criminal Code, which criminalizes unauthorized access to computer information (Art. 272), the creation and dissemination of malicious software (Art. 273), and violations of computer system rules (Art. 274). Offenses that threaten state security or critical infrastructure are subject to aggravated sanctions. Complementary legislation, such as the 2019 *Sovereign Internet Law* and the *Data Localization Law,* strengthens state control over cyberspace and imposes mandatory domestic data storage obligations.

Unlike many European jurisdictions, Russia has deliberately refrained from acceding to the *Budapest Convention on Cybercrime,* contending that it undermines state sovereignty by permitting cross-border investigative powers without consent. Instead, Russia advocates for alternative multilateral arrangements prioritizing sovereign control over cyberspace, particularly within the Shanghai Cooperation Organization, and pursues bilateral agreements with states such as China and CIS members to facilitate intelligence sharing and joint cybersecurity operations.

Cybersecurity enforcement is centralized within key state organs: the *Federal Security Service (FSB)* addresses threats implicating national security and cyber espionage; the *Ministry of Internal Affairs (MVD)* investigates cyber-enabled financial fraud; and *Roskomnadzor* exercises regulatory authority over digital content and telecommunications. Cyber espionage, sabotage, and extremist propaganda are often prosecuted under provisions on treason (Art. 275) and terrorism or extremism (Arts. 205.2, 280).

Russia's cybercrime regime is characterized by a stringent domestic legal framework, a sovereignty-based rejection of transnational instruments such as the Budapest Convention, and centralized institutional oversight. While comprehensive, this approach diverges from Western paradigms by emphasizing state-centric control over cyberspace and limiting international cooperation mechanisms.

5.3. European Countries' Legal and Diplomatic Approach

Legal Framework: European Union (EU) member states are signatories to the Budapest Convention, ensuring a unified legal response to cybercrime; The General Data Protection Regulation (GDPR) is one of the world's most comprehensive frameworks for data protection and privacy; The European Union Agency for Cybersecurity (ENISA) coordinates cybersecurity policies and response mechanisms across the EU; The European Court of Human Rights (ECtHR) enforces legal restrictions on excessive state surveillance, ensuring the protection of digital rights.

Cybercrime and Cyber Warfare Approach: NATO has established cyber defense cooperation, with the NATO Cooperative Cyber Defence Centre of Excellence (CCDCOE) in Estonia playing a key role; The EU prioritizes multilateral cooperation in cybersecurity and has implemented collective sanctions against state-sponsored cyber threats; European legal systems emphasize digital rights and privacy more rigorously than Russia and Azerbaijan, yet balancing security and individual freedoms remains a challenge.

Table 1. Comparative Overview of Cybersecurity and International Cooperation

Criteria	Azerbaijan	Russia	European Countries (EU & NATO)
Membership in the Budapest Convention	No	No	Yes
Cybersecurity Legislation	Present but developing	Strong state control	Comprehensive frameworks (GDPR, ENISA)
State-Sponsored Cyber Operations	Utilized in military conflicts	Widespread and sophisticated	Primarily defensive, with limited offensive capabilities
International Cyber Cooperation	Limited to Turkey and regional partners	Collaboration with China, opposition to Western norms	NATO, EU, and U.S. cyber alliances
Data Protection and Privacy	Emerging regulations, partial GDPR alignment	State-driven surveillance model	Strong GDPR protections

This comparative analysis highlights the significant divergences in how Azerbaijan, Russia, and European countries approach cybercrime legislation, cyber warfare, and data protection. While Azerbaijan is strengthening its cybersecurity framework and aligns more closely with Turkey and Russia, it lacks full integration into international cybersecurity regimes. Russia employs cyber operations as a strategic tool within its hybrid warfare doctrine and maintains a state-controlled digital environment. In contrast, the EU prioritizes multilateralism, legal harmonization, and data privacy but faces challenges in ensuring security while protecting individual freedoms[24]. As cyber threats continue to evolve, further international cooperation and legally binding frameworks will be necessary to establish a unified approach to cyber warfare and cybercrime enforcement.

6. Conclusion and Evaluation

This study has examined the legal framework governing the recognition and enforcement of foreign judgments and mutual legal assistance in criminal matters, focusing on Azerbaijan's approach and its alignment with European legal standards. In an increasingly globalized world, cross-border legal cooperation is an inevitable necessity, particularly in criminal law, where an effective international

[24] Ahmet Ulutaş (n 6).

mutual legal assistance system is crucial for ensuring both the fair trial rights of individuals and the sovereign ability of states to administer justice.

Is Azerbaijan's system for recognizing foreign judgments effective?

In Azerbaijan, the recognition and enforcement of foreign judgments are regulated under Chapter LIX of the Criminal Procedure Code (CPC) and supported by international treaties such as the Minsk Convention (2002), the Chisinau Convention (2004), and the 1959 European Convention on Mutual Assistance in Criminal Matters. Additionally, Azerbaijan applies the principle of reciprocity, which allows for the recognition of foreign judgments even in the absence of a specific treaty.

However, unlike the automatic recognition model implemented in the European Union (EU) through instruments such as the Brussels I Regulation (1215/2012) and the Lugano Convention (2007), Azerbaijan follows a case-by-case assessment approach. While this allows Azerbaijan to safeguard its national sovereignty by individually evaluating each request, it also prolongs legal proceedings and reduces predictability in cross-border judicial cooperation.

What are the main obstacles to the recognition of foreign judgments in Azerbaijan?

Several legal and procedural challenges hinder the recognition of foreign judgments in Azerbaijan. Firstly, national sovereignty and public policy exceptions constitute significant barriers. Article 524.5 of the CPC expressly states that foreign judgments that contradict

Azerbaijan's constitutional principles or public order may not be recognized. This provision is frequently invoked to reject decisions deemed incompatible with domestic legal and political priorities[25].

Another fundamental issue stems from differences in procedural systems. While European jurisdictions generally emphasize adversarial trial proceedings and the protection of the defense, Azerbaijan still retains elements of the post-Soviet inquisitorial model, granting greater authority to investigative and prosecutorial bodies. These structural differences create discrepancies in evidence-gathering, trial procedures, and the rights afforded to defendants, making mutual recognition more complex. For instance, the acceptance of electronic evidence, remote witness testimony, and digital judicial cooperation tools remains underdeveloped in Azerbaijan, hindering the efficiency of legal assistance mechanisms.

What steps should Azerbaijan take to improve its international mutual legal assistance system?

To enhance the efficiency and credibility of its judicial cooperation framework, Azerbaijan must undertake several key reforms. Firstly, the establishment of an independent Foreign Judgment Review Commission could enhance transparency and ensure compliance with international human rights standards. Additionally, the creation of a Fair Trial Assessment Mechanism would provide independent oversight in cases involving politically sensitive or human rights-related concerns.

[25] Ergin Ergül, *Avrupa İnsan Hakları Mahkemesi ve Uygulaması* (Yargı Yayınevi 2003).

Furthermore, Azerbaijan should strengthen its bilateral and multilateral legal cooperation agreements with the EU, the Council of Europe, and other international bodies. Expanding legal assistance agreements, particularly in areas such as organized crime, cybercrime, counterterrorism, and anti-money laundering, would enhance legal certainty and procedural alignment with European standards.

Additionally, developing digital legal assistance systems is essential for expediting judicial cooperation. Implementing electronic case management platforms, digital evidence-sharing mechanisms, and multilingual legal assistance tools would significantly improve the efficiency of cross-border judicial collaboration.

In conclusion, the recognition and enforcement of foreign judgments, along with mutual legal assistance in criminal matters, are fundamental components of international legal cooperation and play a crucial role in cross-border justice administration. While Azerbaijan's legal framework is largely aligned with international standards, certain structural and procedural challenges necessitate further reforms.

Key areas requiring improvement include enhancing judicial independence, strengthening human rights protections, ensuring procedural harmonization with European legal standards, and streamlining bureaucratic processes. By adopting a more transparent, rights-oriented, and technologically advanced legal framework, Azerbaijan can bolster its international legal credibility and foster stronger cooperation with European and global judicial bodies.

Moving forward, establishing robust international partnerships and embedding human rights protections within the judicial recognition process will be essential for Azerbaijan's successful integration into the global legal system.

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ВИЗНАННЯ І ВИКОНАННЯ ВИРОКІВ СУДІВ ІНОЗЕМНИХ ДЕРЖАВ: ПРАВОВІ РЕАЛІЇ В АЗЕРБАЙДЖАНІ ТА ЄВРОПІ

Анотація. Європейська конвенція про взаємну допомогу у кримінальних справах 1959 р. є основоположним договором, який сприяє судовому співробітництву між європейськими державами у кримінальному провадженні. Вона створює правову базу для збирання доказів, допиту свідків, надання допомоги, пов'язаної з екстрадицією, та обміну відомостями про судимість, забезпечуючи ефективність, правову визначеність та процесуальну справедливість у транскордонних справах.

Ця стаття має на меті проаналізувати ключові положення Конвенції, їхні правові наслідки та підхід Азербайджану до їх імплементації. У ній розглядається обсяг судового співробітництва, обмеження, зумовлені суверенітетом та публічним порядком, а також виклики, що виникають через відмінності у правових системах. Особлива увага приділяється процесуальним механізмам, таким як судові доручення (статті 3–6) та добровільні свідчення свідків (стаття 7), а також взаємозв'язку між міжнародною правовою допомогою (МПД) та захистом прав людини згідно з Європейською конвенцією про захист прав людини і основоположних свобод.

Незважаючи на всеохопні рамки Конвенції, розбіжності у національних правових стандартах, проблеми захисту даних та різні тлумачення політичних і податкових правопорушень створюють перешкоди для безперебійного співробітництва. У статті наголошується на необхідності гармонізації процесуальних стандартів, посилення міжнародно-правового узгодження та вдосконалення міжурядової співпраці для підвищення прозорості, передбачуваності та ефективності взаємодії Азербайджану з європейськими механізмами судового співробітництва.

Ключові слова: транскордонне судове співробітництво; визнання вироків судів іноземних держав; міжнародна правова допомога; захист прав людини; правова гармонізація.