

## СЕКЦІЯ 2

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### EU COOPERATION IN COMBATING AGAINST TRANSNATIONAL CRIME

The globalization of criminal activities has created a need for strengthened forms of international cooperation. The investigation, prosecution and control of crime cannot be confined within national boundaries. To keep pace with contemporary forms of crime, including transnational organized crime, corruption and terrorism, we need improved and streamlined mechanisms. More concerted efforts are needed in extradition, mutual legal assistance, transfer of sentenced persons, transfer of criminal proceedings, international cooperation for purposes of confiscation, including asset recovery, and international law enforcement cooperation [1].

Since the 1970s, the member states of the European Union (EU) have been working together to combat transnational crime. A basis has been established for some degree of institutionalization in police and judicial cooperation. Yet the framing of strategies against transnational crime remains firmly in the hands of national policymakers, and the implementation of EU instruments tends to be far from satisfactory [2].

Title VI of the Treaty of the European Union provides the legal framework for all EU initiatives in the fight against crime. Organized crime, in particular, is given special attention, as it represents, together with terrorism and drug-trafficking, one of the three fields in which Member States are called upon to progressively adopt measures establishing minimum rules relating to the constituent elements and penalties. Organized crime also appears to be a target of police cooperation as to the common evaluation of particular investigative techniques and the promotion of liaison arrangements between prosecuting/investigating officials [3].

Nowadays more and more people travel, work, study and live abroad, including criminals. The progressive elimination of border controls within the EU has considerably facilitated the free

movement of European citizens, but has also made it easier for criminals to operate transnationally. Crime has become a sophisticated and international phenomenon. In order to tackle the challenge of international crime, the EU is progressing toward a single area of criminal justice. The starting point is respect for one of the most crucial principles: the mutual recognition of judicial decisions in all EU Member States. We have to develop a common European criminal justice area, where there is mutual trust and support among national law enforcement authorities [4].

Implementation of the principle of mutual recognition of decisions in criminal matters presupposes that Member States have trust in each other's criminal justice systems. That trust is grounded, in particular, on their shared commitment to the principles of freedom, democracy and respect for human rights, fundamental freedoms and the rule of law [5].

Besides, in October 1999 the European Council held a meeting in Tampere exclusively dedicated to justice and home affairs (JHA). In this context, not only were the broad commitments set out in the Amsterdam Treaty re-affirmed, but certain criminal areas were highlighted that are most commonly the domain of lucrative activities of organized criminal groups: financial crime (money laundering, corruption, Euro counterfeiting), drugs trafficking, trafficking in human beings, particularly exploitation of women, sexual exploitation of children, high tech crime and environmental crime. All these areas were identified as the main sectors where common definitions, charges and penalties should be agreed upon by EU Member States [3].

The legislative achievements of the EU in the specific field of criminal law and justice are now significant both in scope and in depth and are in many ways revolutionizing the day-to-day practice of criminal law in the EU [5].

Consequently, tackling organized crime may be regarded as a top priority for the EU in its effort to create an 'area of freedom, security and justice'. This concept is an innovation of the Amsterdam Treaty and an attempt to respond to the growing perception that organized crime is spreading in the EU with unprecedented virulence. Although activities linked with highly organized criminal groups have increased in virtually every corner of the world, as a result of the globalization of economies and the rapid advance of

communication technologies, the phenomenon is creating a particularly acute problem in the European Union: the Single Market and the Schengen system have established a virtually border-free area, but have not created corresponding judicial and police structures with the ability to coordinate their actions smoothly and effectively across national borders [3].

On the other hand, the Amsterdam Treaty has brought about a number of potentially important changes in the instruments at the disposal of Member States for implementing the provisions of Title VI. Tools available under the Maastricht Treaty (notably Joint Actions, Joint Positions and Conventions), have been replaced by new ones. The hope is that they will facilitate cooperation to a greater extent. In particular, Framework Decisions (directly binding on Member States as to the results to be achieved) are expected to gradually replace Conventions. The latter were in fact criticized on the grounds that they had to be ratified by all Member States before entering into force, thus creating a major obstacle to delivering a fast and effective response to criminal activities [3].

Although it is widely accepted that member states maintain the discretion to establish their own priorities and retain their national sovereignty in these matters, increasingly there are efforts to initiate, develop, and consolidate the means for international cooperation [2].

Success in the fight against organized crime will crucially depend on the willingness of EU Member States to make full use of the instruments available under the Amsterdam Treaty. This may still prove a difficult and time-consuming exercise, not least because of the wide margin each of them still has for blocking the adoption of common rules in criminal matters. On the other hand, overattachment to traditional notions of national sovereignty may ultimately play into the hands of highly mobile and sophisticated criminal groups [3].

#### Reference list

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