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JOINT INSTITUTIONALISED FIGHT AGAINST ORGANISED CRIME IN THE EUROPEAN UNION

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Abstract

Organised (international) crime is essentially perceived as a social reality in which legal and criminal structures are integral parts of the same corrupt social, political and economic system operating in two or more states, regardless of the type of actions promoted or the types of organisations of those supporting this system.

The various criteria of the multidimensional concept can be distinguished using a classification on four levels of complexity:

Perpetrators defined by individual characteristics, who participate in the commission of the specific acts of organised crime.

The elements of the structures (groups) linking these individuals.

Power structures subordinate to this structural entity.

The relationship between these illegal structures and the legal structures of society.

The contemporary concept of organised crime (in reality a form of cross-border crime) is heterogeneous and contradictory. If we focus on the general perception of this concept, we can state: organised crime is equal to a formal, homogeneous, multifunctional, criminal organisation that aims to undermine and dominate legal institutions of society, its members acting in two or more states to achieve their criminal purpose.

Organised crime can essentially be defined as that international criminal segment to which relate illegal activities, capable of seriously affecting certain sectors of economic, social and political life in two or more countries, carried out by various methods and means, in a constant, planned and conspiratorial manner, by associations of individuals, with a well-defined internal hierarchy, specialised structures and self-defence mechanisms, in order to obtain illicit profits at particularly high levels. Two main characteristics of the concept of organised crime emerge from the definition:

a. The degree of social danger of the illegal activities carried out by this criminal segment can seriously affect certain sectors of economic, social and business life.

b. The constant, organised, planned and well-conspired conduct of these criminal activities carried out in several States.)

Keywords: *organised crime, Europol, liaison officers, Europol computerised intelligence gathering system*

INTRODUCTION
EUROPEAN POLICE OFFICE (EUROPOL)¹

The purpose of creating Europol was to improve police cooperation in the field of organised crime at international level.

Europol's objectives are to improve the effectiveness of the competent services of the Member States and cooperation in preventing and combating terrorism, drug trafficking and other serious forms of international crime where there are indications that a criminal structure or organisation exists and where two or more Member States are affected by these forms of crime in a way which, by reason of the scale, seriousness and consequences of the offences, requires joint action by the Member States.

Areas of competence, short, medium and long term:

- illicit drug trafficking;
- illicit trafficking in nuclear and radioactive materials, including the offences defined in Article 1(1) of the New York Convention on the Physical Protection of Nuclear Material (3 May 1980) and those referred to in Article 197 of the Euratom Treaty and Directive 80/836/1980 respectively;
- illegal immigration channels, including actions aimed at facilitating the international illegal residence or employment of persons in the territory of the Member States contrary to the regulations and conditions applicable in the Member States;
- Trafficking in human beings, i.e., in essence, acts whereby a person is subjected to real power in order to induce them, using violence or threats, or a relationship to manipulate them in order, in particular, to subject them to exploitation through prostitution, sexual exploitation and violence in relation to minors, or involving trade in children; trafficking in stolen vehicles, in the sense of theft or hijacking of cars, trailers, lorries or semi-trailers, buses, motorcycles, agricultural vehicles, construction site vehicles and detached parts of the aforementioned vehicles.
- Money laundering and related offences, meaning all offences listed in the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, signed in Strasbourg on 8 November 1990.

I. FUNCTION OF EUROPOL

- facilitating the exchange of information between Member States;
- collecting, collating and analysing information and intelligence;
- communicating, without delay, to the competent services of the Member States, information concerning them and links established between criminal offences;

¹ Hurdubaie I., Troneci V., *România în Interpol*, Editura M.I., Bucureşti, 1998, p. 79.

- facilitating investigations in the Member States by forwarding all relevant information to the above units;
- managing the collection of computerised information relating to:
 - persons who, under the national law of the Member State concerned, are likely to have committed or participated in an offence relevant to Europol's competence, or who have been convicted of such an offence;
 - persons in respect of whom certain serious acts committed justify, in relation to national law, a presumption that they will commit offences relevant to Europol's competence;
 - persons who may be called upon to testify in the course of investigations into the offences in question or in subsequent criminal proceedings;
 - persons serving as contact points or accompanying persons;
 - persons who could provide information on the offences under consideration;
- another separate set of functions, which aim to improve, through the national units, the cooperation and effectiveness of the competent services of the Member States, in the light of Europol's objectives respectively:
 - the enhancement of specialised knowledge which is used in the investigations of the competent services, previously;
 - defined, and the deployment of investigation advisers;
 - providing strategic insights to facilitate and promote effective and efficient use of available national resources for operational activities;
 - the preparation of general status reports on activities;
- assisting Member States through advice and research in the following areas:
 - training members of the relevant services;
 - organisation and equipment of these services;
 - crime prevention methods;
 - technical and scientific police methods and methods of annihilation.

1.1 Structures involved in the performance of Europol's general functions and the specific functions of these structures

EUROPOL		
Structural elements of	<i>a) Board of Directors</i>	<i>Europol Bodies</i>
Europol, proper	<i>b) The Director</i>	
	<i>c) Financial Controller</i>	
	<i>d) Budget Committee</i>	
	<i>e) Staff</i>	- <i>the director</i>
		- <i>deputy directors</i>
		<i>agents</i>
National Units		
Liaison Officers		
National Supervisory Authorities		
Joint Supervisory Authority	- <i>Appeals Committee</i>	
	- <i>Secretariat</i>	

1.2 Europol bodies and staff

(a) Management Board:

- composition: one representative of each Member State, with one vote, who may be replaced by an alternate member with the same rights;
- powers:
 - participate in furthering Europol's objectives;
 - defines, by unanimity, the rights and obligations of liaison officers at Europol;
 - decides unanimously on the number of liaison officers that Member States may send to Europol;
 - ensures the preparation of implementing rules on files;
 - participates in the adoption of the rules governing Europol's relations with the Member States;
 - unanimously define the arrangements for the index system;
 - approves, by a two-thirds majority, the instructions for the creation of files;
 - may take a position on the comments and reports of the Joint Supervisory Body;
 - shall examine the matters over which the Joint Supervisory Body exercises its competence;
 - regulates the details of the control of the lawfulness of requests to the information system;
 - participate in the appointment or dismissal of the Director or Deputy Directors;
 - checks that the Director regularly carries out his duties;
 - participate in the adoption of the Staff Regulations;
 - participate in the drafting of agreements and
 - adopting decisions to protect secrecy;
 - participates in the establishment of the budget, including the establishment plan;
 - unanimously adopts the five-year financial plan;
 - unanimously appoints financial control and supervises its management;

(b) The Director of Europol shall have the following responsibilities:

- to perform the tasks conferred on Europol;
- day-to-day administration;
- management of staff;
- drafting and proper implementation of Management Board decisions;
- preparing the budget, the establishment plan and the financial plan for the implementation of Europol's budget;
- management before the Management Board - participates in the work of the Management Board;
- representing Europol.

c) Europol staff

The Director, Deputy Directors and employees of Europol shall carry out their duties with a view to achieving Europol's objectives and functions, without seeking or accepting instructions from government, authorities, organisations or persons outside Europol.²

1.3 National units to fight cross-border organized crime

They are police structures created or designed by each Member State, with the following main tasks:

- To provide Europol, on its own initiative, with the information and clarification necessary for it to carry out its functions;
- To respond to Europol's requests of information, clarifications and advice;
- To keep the information and clarifications up to date;
- To exploit and disseminate, in accordance with the national law of its own state, the information and clarifications necessary for the competent services in its own country;
- To address requests for advice, information, clarifications and analysis to Europol;
- To transmit the information stored in the computerized collections to Europol;
- To ensure compliance with the law, in each exchange of information with Europol.

a. Liaison officers

They are experienced personnel, from the police structures of the 27 EU member states, specialized in the fight against organized crime, with the following missions:

- To represent the interests of the national units within the framework of Europol;
- To contribute, under precisely defined conditions, to the exchange of information between the national units represented and Europol:
 - transmitting Europol information, provided by the national units;
 - communicating information from Europol to their own national units;
 - cooperating with Europol agents in the transmission of information and advising them with the analysis of the information, concerning the home member state;
- To proceed among themselves, to the extent deemed necessary, to the exchange of data from the national units and to coordinate the measures that come from the data exchange.
- To consult, to the extent deemed necessary, various files;

² Vezi I.P. Filipescu, A.Fuerea, *Drept instituțional comunitar european*, Editura Actami, București, 2000, p. 98.

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- To take technical and organizational methods, at their level, in order to ensure the security and confidentiality of the data, which falls within Europol's jurisdiction.

The national surveillance authority, designated by each Member State, responsible with supervising, in full independence and in compliance with national law, the legality of personal data, in the circumstances of their consultation and transmission to Europol, regardless of form, and that the rights of the individuals are not affected by the access of national units or liaison officers to the contents of the information systems and index systems of the Member State concerned. To this end, the national surveillance authorities:

- have access to the offices and files of the officers, sent by the Member State, represented next to Europol;
- controls the activities of the national units and the liaison officers, regarding the fulfillment of their mission, to the extent that those activities target the protection of personal data;
- comply with the requests from any person, addressed to these national surveillance authorities, to ensure that the introduction and transmission of personal data, to Europol, in any form, as well as any consultation of said data by the Member States, are done in a lawful manner.

b. Europol 's computerized information collection system

<i>Structure</i>	<i>a) The information system</i>
	<i>b) The activity files</i>
	<i>c) The index system</i>

a) The information gathering system is the one created and managed, in order to fulfill the Europol's functions and the one powered by the Member State through their national units and liaison officers, in compliance with their national stipulations, as well as the ones powered by Europol, through the data provided by third-party countries or courts or resulting from the analyses carried out, the content of which refers to:

- The person, as previous defined in the treatment of Europol's duties, who are either likely to have committed or participated in the commission of any of the offenses within the competence of Europol, or have been convicted of such offenses, or are grounds for presuming such offenses, respectively the following indications, exclusively:
 - surname, birth name, first name or, if necessary, nickname or provisional name;
 - date and place of birth;
 - nationality;
 - sex;
 - other elements, if necessary, to establish the identity and, especially, particular physical signs, objective or unalterable³;

³ See P. Tărchilă, M. Ioja, *op.cit.*, p. 166.

- The crimes, alleged acts and the places of their commission;
- The means used or susceptible to be used;
- The services treated and the number of their files;
- The suspicion of belonging to a criminal organization;
- The convictions already given for offenses relevant to Europol's competence;
- Additional information about the person and their previous offenses.

b) The activity files for analysis purposes are the files created for each analysis project, defined as the assembly, processing and use of data to support the criminal investigation and involving the establishment of an analysis group, closely associated with analysts and other designated Europol staff, by Europol's management, as well as liaison officers and/or experts from the Member State, who is the source of information or are subjects to analysis.

The contents of the files include the data relating relevant information to Europol's competence and common to them, intended for specific analysis activities and relating to:

- Persons who are either likely to have committed or participated in the commission of such offenses or have already been convicted of any of them, or who, in relation to whom, there are grounds on the basis of which they are presumed to have committed such offenses;
- Persons who may be called to testify in the criminal investigations carried out on the crimes considered or on the occasion of subsequent criminal proceedings;
- Persons who serve as contacts or are accompanying;
- Persons who could provide information on the crimes considered.

The creation of each automated personal data file is carried out on the basis of an creation instruction, subject to the approval of the Board of Directors and indicates:

- The name of the file;
- The objective of the file;
- The categories of persons targeted by the data the file will contain;
- The type of data and, possibly, the strictly necessary data, among which those listed in art.6, paragraph 1 of the Convention of the European Council from 28.01.1981, relative to the automated process of personal data;
- Different types of personal data that allow access to the entire file⁴;
- Transfer or introduction of stored data;
- The conditions under which the personal data stored in the file will be able to be transmitted and to which recipients, after which the procedure;
- The data verification periods and the duration during which they are stored;
- The way of establishing the reports⁵.

⁴ See Stancu E., *op.cit.*, p. 477.

⁵ See Pitulescu I., *op.cit.*, p. 376.

The data is introduced in these files in the following way:

- By the national units, at the request of Europol or on its own initiative;
- Supporting clarification which appear to be necessary for Europol and which are provided to Europol at its request or on its own initiative, by:
 - the European Communities and bodies governed by public law, established on the basis of the Treaties of establishment⁶;
 - other public law bodies set up within the European Union;
 - bodies existing under an agreement between two or more Member States of the European Union;
 - third-party countries;
 - relevant international organizations and public law bodies of this nature;
 - other organisms governed by public law, which exist by virtue of an agreement between two or more states;
 - Interpol;
- Data accessed under the right to interrogate other information systems, with reference to personal data obtained by Europol under other conventions.

c) *The index system* represents the system of indexing the data stored in the activity files for analysis purposes at the level of Europol, constituted by it, on the basis of the ways defined by the Management Board, whose purpose is to allow to know whether or not information is stored.

Essential points in the logic of the theme

- the efficiency of the cooperation of the specialised institutions of the 27 member states of the eu, for the prevention and the fight against terrorism, drug trafficking and other serious forms of international crime
- the institutionalised cooperation has as common foundation the liaison officers, members of the specialised institutions that fight against international crime and the use of a common collection and exploration data system.

CONCLUSIONS

A Europol's objectives are to improve the effectiveness of the competent services of the Member States and to cooperate in preventing and combating terrorism, drug trafficking and other serious forms of international crime, for which there are indications that a criminal structure or organization exists and whether two or more Member States are effected by these forms of crime in a manner which, by the extent, gravity and consequences of the offenses, requires joint action by the Member States.

The fields of competence, short, medium and long term:

- Illicit drug trafficking;

⁶ See Hurdubaie I., Tronici V., *op.cit.*, p. 489.

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- Illicit trafficking in nuclear and radioactive materials, including the offenses defined by Art.1 Paragraph 1 of the New York Convention on Physical Protection of Nuclear Material (May 3, 1980) and, respectively, those referred to in Art.197 of the Eurotom Treaty and in the Directive 80/836/1980;
 - Illegal immigration channels, including actions aimed at facilitating, internationally, of the illegal stay or employment of persons, in the territory of Member States, against the regulations and conditions applicable in the Member States;
 - Human trafficking, respectively, par excellence, acts by which a person is subjected to real power to determine them, using violence or other threats, or a relationship to manipulate them, in order to subject them to exploitation through prostitution, sexual exploitation and violence in relation to minors, or targeting children trafficking, stolen vehicles trafficking, with the meaning of theft or hijacking of cars, trailers, trucks or semi-trailers, buses, motorcycles, agricultural vehicles, construction vehicles and spare parts, from the vehicles previously invoked;
 - Money laundering and related offenses, including all offenses listed in the Convention of the European Council on Laundering, Searching, Seizing and Confiscating of the Proceeds from Crime, signed at Strasbourg on November 8 1990.

The main functions of Europol include

- Facilitating the exchange of information between Member States;
- Collecting, assembling and analyzing information and clarifications;
- Communicating, without delay, to the competent services of the Member States, the information concerning them and the links established between criminal acts;
- Facilitating the investigations of the Member States, by providing the relevant units with all the relevant information in this regard;
- Managing the collections of computerized information regarding:
 - Persons who, according to the national law of the Member State concerned, are likely to have committed an offense or participate in an offence, falling within the competence of Europol or who have been convicted of such an offence;
 - Persons for whom certain serious acts committed, according to national law, justify the presumption that they will commit offenses relevant to the competence of Europol;
 - Persons who may be called to testify on the occasion of investigation carried out on the considered crimes or on the occasion of subsequent criminal investigations;

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- Persons who serve as contact points or are accompanying⁷;
- Persons who could provide information on the offenses considered.

BIBLIOGRAPHY

- Albu P., *Crima organizată în perioada de tranziție - o amenințare majoră la adresa securității naționale*, Editura M.A.I., București, 2017.
- Albu, P., Corciu, E., *Combaterea crimei organizate în România*, Studiu, publicat în Revista Criminalistica nr. 9/2018, p. 17-25.
- Hurdubaie, I., Troneci, V., - *România în Interpol*, Editura M.A.I., București, 2011.
- Păun, C., *Crimă organizată sau organizarea crimei*, Editura Analele Academiei de Poliție A.I. Cuza, București, 2013.
- Pitulescu, I., *Al treilea război mondial și crima organizată*, Editura Național, București, 2012.

⁷ See Medeanu T.C., *Criminalistica în acțiune. Omul, terorismul și crima organizată*, Editura Lumina Lex, București, 2008, p. 115.