

The european union and cooperation to fight 'transnational crimes' essay

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The european union and cooperation to fight ' transnational crimes' WHAT ARE THE LATEST DEVELOPMENTS AND POLICY? Introduction Organized crime is today a global crime.

Many governments confront criminal groups that experts say are sophisticated and connected. In order to broaden their scope and reach, they form multinational alliances. They conduct businesses across numerous borders with impunity.

They actually choose where to operate founded on the vulnerability of the jurisdiction. This is because of their inherently weak institutions. The challenge has been to form an efficient global and coordinated response that matches the well connectedness and coordination among the criminals. It cannot be denied that the current criminal activities have no boundaries, are lucrative, powerful and threatening. Joint anti-crime efforts are frustrated by the outdated concept of national sovereignty and differences in legal systems among sovereign states. In many respects, the crime threat is outmaneuvering the capacities of nationally based law enforcement agencies. It exploits the insular culture of national police forces and the rigidities of sovereign legal systems in ways that were previously unknown.

[1]The increase in transnational organized crime in the last decades of the twentieth century was as unexpected as the end of the Cold War. The challenges posed to national and international governance and international security by criminal organizations may be lasting, complex, and in some respects, more difficult to manage. It must be recognized that the failure to manage the challenges posed by transnational organized crime would seem

to have much destructive consequences than those of the failure to manage superpower crisis.[2] Nevertheless, these consequences would be far from being negligible, particularly in the medium and long term. The international community must step up the struggle against organized crime to one of the highest priorities in terms of resource allocation and the development of strategies in order to evade these consequences.

This again must be done in a sustained and consistent manner. The task is difficult and commitment must be nurtured and maintained in an environment where success of the most evident type might not be guaranteed and progress might appear frustratingly low. The emergence of transnational criminal organizations is both a sign and consequence of changes in international relations. It is also an establishment that will help intensify some of these changes and exacerbate the difficulties in managing globalization. There have been concerns about the tardiness of some governments in identifying the severity of the challenge and in reconciling with the new features of organized crime. The organized criminals of the final decade of the twentieth century and of today are of a different nature, integrating corporate and criminal cultures, carrying out criminal business not only with ruthlessness but also with an element of business skill characteristic of many Chief Executive Officers, and gathering enormous wealth.

Transnational criminal enterprises have made use of the globalization of trade and finance, the revolution in information and communications and the existence of large consumer markets for illegal products, to establish a

degree of wealth and power that has posed enormous problems for governments, particularly those whose economies are in transition. Governments have not found it easy establishing an effective and sustained response even where they have recognized the seriousness of the challenge posed by transnational organized crime. In recent times, however, some important progress have been made by states and international organizations in coming up with measures to combat criminal enterprises. This paper is concerned with the measures that have been taken by European Union in an effort to combat transnational organized crime. It is divided into three sections: the major intelligence cooperation developments to combat transnational crime; the major legal assistance developments in response to transnational crimes across European Union; and the main enforcement cooperation in European Union within the last decades. Intelligence cooperation Information and intelligence is being viewed by law enforcement agencies as a precious commodity. It therefore follows that trust and reciprocity are necessary for success in cross border investigations. Without the consolidation of an informal network, cooperation among police cannot succeed.

Whether this is accepted by Europe's politicians is another matter. It seems that the politicians are firmly committed to a strategy of formalization and institutionalization. The cooperation between police and the judiciary in criminal matters is an intergovernmental endeavor. There have been numerous attempts to reach a common understanding or organized crime

within the European Union so as to establish a common strategy of fighting it.

Practically, justice and home affairs is a crowded policy space with many participants at various administrative levels corresponding to different policy mandates.[3] The development of intelligence cooperation within the European Union is based on the establishment of a stable system for the exchange of police and judicial information, technical assistance and investigative methods aiming to increase mutual confidence among police and judicial authorities to facilitate joint investigative activities.[4] The system is mainly achieved by the establishment of networks and cooperation bodies aiming to improve joint collection and analysis of information and data by means of computerized information exchange systems and transfrontier police cooperative measures. The bodies where the harmonization of national investigative style can be realized are the Europol, Eurojust, the European Task Force of Police Chiefs and the European Police College. There is also the possibility of member states setting up a joint intelligence team or “ Joint Investigative Teams.” The police and judicial cooperation also aims at approximating the various national investigations and equipment. This involves the training of personnel, the standardization of equipment and transmission frequencies and research in the field of investigation techniques and criminology issues.

[5]A further instrument that has been presently adopted is the technical cooperation among law enforcement authorities. This is meant to improve the interlock amongst the various policing systems by means of the

approximation of different investigation styles. Legal assistance developmentThe justice and home affairs were external to the competence of the European Union at the beginning of the 1990s, with every member state making its own cooperative arrangements within the terms of the various European conventions agreed under the Council of Europe.

Developments within the EU on cooperation within the justice and home affairs since then have been relatively fast. The justice and home affairs were incorporated into the institutional framework of the Treaty on European Union in 1993. The Amsterdam Treaty of 1999 on the other hand incorporated the Schengen Rules on freedom of movement. The idea of judicial cooperation was strengthened by the Treaties of Maastricht and Tampere. Impetus was added to these developments by various terrorist incidents beginning with the 9/11 attacks on the United States and the Madrid Bombings. The consented aim of the EU's political leaders was to establish an area of Freedom, Security and Justice within the EU.[6]

Establishing structures and protocols within the criminal agencies of the various member states formed the strategy of achieving this goal. The plan of the European Union Commission was to incorporate the strategic approach to justice and home affairs into the proposed EU constitution.

Legally, every member state consented to justice and home affairs becoming part of the EU competencies. At the center of advancing the key aim of the EU to establish an area of freedom, security and justice is the Justice and Home Affairs Council which brings together justice and interior ministers from every member state. It involves establishing and implementing

cooperation and common policies in the justice and home affairs sectors.[7]

So far, the major developments have been the setting up of the European Police Office, the European Ombudsman, Eurojust and the European Judicial Network. The main agencies concerned with crime and justice is however the European Police Office which will be looked at under enforcement cooperation.

The European Judicial Network was established in 1998 to improve judicial cooperation between EU members and to combat organized crime. It is a practical structured mechanism of EU judicial cooperation and functions to identify and promote those in member states who play a practical role in the realm of judicial cooperation in criminal matters.[8] It therefore establishes a network of experts who carry out mutual legal assistance requests.

Enforcement cooperation to combat Transnational Organized Crime within European Union
The member states of the European Union have been working together since the 1970s to combat transnational crime. A foundation has been developed for some degree of institutionalization in police and judicial cooperation. However, the framing of strategies against transnational crime has remained firmly at the discretion of national policymakers.

[9] The implementation of European Union's instruments on the other hand seems to be far from satisfactory. This section looks at the history of European cooperation in law enforcement, assesses the European Union's instruments for the control of organized crime, and provides an insight on the policy trends in justice and home affair cooperation in the European

Union. The collaboration of law enforcement between European states dates back to the 1970s and the establishment of the “ Trevi Group” (Berdal ; Serrano). Trevi was designed to offer a foundation for a greater European cooperation to combat terrorism. Its fundamental concern involved a wide range of political issues linked to the implication on policing and national security due to a reduction in border controls between European states. Trevi opened up the path for intelligence-pooling and knowledge sharing about law enforcement techniques and equipment. There are three important aspects of Trevi with regard to the later development of European cooperation.

These are: its close association with external security matters; its organization structure; and its strategic agenda. Matters of external security and defense are now managed under the “ Second Pillar” of the European Union Treaty which handles the EU’s Common Foreign and Security Policy. However, with regard to administration, the difference between external and internal security issues can be artificial, especially with issues like the production and trade of drugs and terrorism. With regard to its organization, Trevi was layered according to representation and negotiation. This layered structure has been maintained within the EU’s “ Third Pillar” on police and judicial cooperation on criminal issues which handles the internal rather than external issues.[10] Trevi’s strategic agenda changed from an initial emphasis on terrorism to illegal immigration, drugs and serious and organized crime. All these issues form part of the agenda of the Third Pillar.

Substantial moves were made in the 1990s toward institutionalizing law enforcement cooperation. A proposal was pushed through by the German chancellor Kohl at the Luxembourg European Council in 1991 to establish a European Police Office.[11] Kohl's aim was to establish a cross-border investigative office like the United States FBI. This idea however proved contentious. One of the major barriers in the negotiations concerning Europol was its founding convention which encompasses a series of legal provisions on the working terrain and scope of activity of the organization. Owing to the unanimity of decision making within the EU's Justice and Home Affairs Council, consensus was needed on every detail of the convention including the scope of jurisdiction of the European Court of Justice. Europol Convention's ratification concluded in 1998 even though technical problems meant that Europol could only become wholly operation on 1st January, 1999.[12] The role of Europol, under Article 2 of its convention, is to coordinate the investigation of forms of serious international crime " where there exists factual indications that an organized criminal structure is involved" and when the interests of " two or more member states are affected by the forms of crime in question in such a way as to require common approach by the Member States owing to the scale, significance and consequences of the offenses concerned.

"[13] Europol is basically dependent on national law-enforcement agencies and Europol liaison officers for its information and intelligence. Its establishment has also resulted in the development of national units responsible for the central coordination of intelligence within the realm of

organized crime. There are commitments among the EU states to make Europol a success. However, there is not much concerning the impact of the institution on the control of transnational organized crime. The coordinating capacities and geographical relevance of Europol may demonstrate its value when compared to other institutions and cooperative frameworks. The political and institutional cooperation between the members of EU provides a joint forum to facilitate policy convergence even though transnational crime in Europe possesses a strongly heterogeneous character. The potential of Europol also depends on law enforcement professionalism, multidisciplinary cooperation and the joint development of intelligence models and strategic analysis.

[14]ConclusionThe coordinated efforts of the European Union to control international organized crime do not only lead to the establishment of joint programs, legal instruments, and common institutions. The other side of joint action is the integration of national criminal justice systems, national law enforcement services and national judiciaries which will make it increasingly difficult for transnational criminal organizations to thrive owing to coordinated exchange of information and intelligence.:::;

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