

CONSIDERATIONS REGARDING EUROJUST'S CONTRIBUTION IN FIGHTING CROSS-BORDER CRIME IN EUROPE

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Abstract:

One of the objectives of the European Union enshrined in 67 alin.(1) (ex-art. 61 TCE and ex-art. 29 TUE) of the consolidated version of the Treaty on European Union is to create a common European space of security and justice without internal frontiers, in which to ensure the free movement of people, correlated with appropriate measures on external border controls, asylum, immigration, and crime prevention and combating. This is a long term goal that requires active cooperation of Member States and multiple efforts by EU institutions.

The institutional functioning practice has shown that the classic forms of judicial cooperation do not have the ability to complete this objective and that is necessary to create specialized structures.

In this context the First European institutional structure was established in 2002, a specialized agency of the European Union, named Eurojust, with the main objective to promote and improve coordination and cooperation between the judicial authorities of the Member States in the fight against serious cross-border crime affecting the European Union.

Tasks of Eurojust and relations with other European bodies, particularly the Council and Commission are established by Decision 2002/187 / JHA amended by Decision 2009/426 / JHA Council of 16 December 2008 It is exercised by College Eurojust or through its national members.

Keywords: *common European space of security and justice; European crime; points of contact; forms of intervention; Cooperation meetings, joint investigation*

1. Building an area of freedom, security and justice – prerequisite for establishing EUROJUST

One of the objectives of the European Union set by Article 67 para. (1) (ex Article 61 TEC and ex Article 29 TEU) seeks the establishment of an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States¹.

Within this objective three-dimensional space of freedom requires the free movement of persons across internal borders of the Member States and the freedom for citizens to live in an environment of respect for law¹; security space necessary to improve the institutional framework for joint action in the field of police and judicial cooperation to prevent and combat organized crime and terrorism, and the area of justice, providing an environment of legal certainty by ensuring the independence of the judiciary, magistrates professionalism of each Member State that inspire a high level of confidence, leading to recognition of a judgment and its execution in any of these countries, but also to ensure that the procedure gives the same sense of justice for all citizens of the Member States..

Conceived in this matrix, the single security and justice are, as, incidentally remarked a senior European official, a long-term goal that requires strong commitment and support of European states.

Progress in building this goal¹ were not spared the "crisis of European construction", that have unveiled a Europe of diversities, but also national pride. In this process, not only the idea of a Single European space mattered, but also the common responsibility for security and stability in the intensification and diversification of forms of crime and the acquisition by the of a transnational nature, which jeopardizes the legal order of each Member State and the Union's values. A very important point in creating an area of

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freedom, security and justice was the Tampere European Council (October 15 to 16, 1999). The document adopted at Tampere states and develops a number of ideas on promoting a common European asylum and migration, combating cross-border crime, the requirement for better access to justice in Europe, greater convergence in civil and criminal.¹

It creates the premises for initiating new forms of cooperation and joint action of States and the European institutions to deal with these issues and the need for partnerships with third countries and international organizations in the fields of justice and home affairs.

Moreover, prior to the Tampere European Council, these issues were the focus of the European Judicial Network¹, established by the joint action 98/428/JAI of the JAI Council¹, but its powers do not define the core group coordinator for rapid exchange of information¹, which does not create premises for collaboration in joint investigations and complex cross-border implications.

To improve the quality of cooperation and coordination between the investigating authorities and the prosecution of EU Member States in terms of serious cross-border crime, was established Eurojust, European body with legal personality composed of representatives of Member States, assisting national investigative bodies having expertise and role at the judicial center for activities effectively combat various forms of the cross-border crime.

2. Structure, skills, and relationships of Eurojust with states and European institutions

Eurojust – European Unit for judicial Cooperation was established by Decision 2002/187 / JAI. In the European institutions it has the status of an independent agency.

2.A. The structure is composed of Eurojust national members¹, with the status of prosecutors, judges and police officers sent by the Member States at the institution in The Hague. They must be senior representative with equivalent competence and rich experience. The national members are supported in their work by deputies and assistants.

Member States may designate besides national representatives, one or more correspondents (experts) especially in the field of domestic terrorism, but they have their head in the respective states.

Relations between national representative Eurojust national correspondent do not exclude direct relationship between the national representatives and the competent authorities of the Member State¹.

As a particular embodiment, it should be noted that Eurojust, European Union body though, some duties and exercising its national members representing Member States and non EU officials or agents. National members are even remunerated by the states they represent.

2.B. Operation. Decisions are taken on by the College of Eurojust's activities that constitute the management body. The College is composed of national members who are entitled to vote¹. College elects a president and two vice presidents, to be validated by the Council.

Eurojust administrative staff are managed by the Staff Regulations of the European Communities laid down in Regulation 259 / 6S.

Eurojust is a unit and not just a gathering of representatives of the Member States¹.

Areas in which Eurojust may decide are set out in Article 4 paragraph 1 of Decision 2002/187 / JHA and they refer to:

- types of crime: cyber crime, fraud and corruption, as well as all crimes affecting the financial interests of the European Union laundering from crime, crime affecting the environment, participation in a criminal organization within the meaning of Joint Action 98/733 / JHA December 21 of the Council relating to participation in a criminal organization in the Member States of the European Union; other offenses committed in connection with the types of crime listed above.

- types of crimes: terrorism, illicit drug trafficking, human trafficking, illegal immigration pathways, illicit trafficking of radioactive and nuclear materials, illicit vehicle, euro counterfeiting, money laundering activities related to international criminal;

2.C Eurojust Relations Commission are established by the Treaty of Lisbon¹ and by article 11 of Decision 2002/287/JAI of 28 February 2002 According to the mentioned European Commission is fully associated with the work of Eurojust, setting with practical arrangements needed to strengthen their cooperation.

Eurojust and Europol cooperation is particularly important, especially in terms of the latter's role in providing information to Eurojust in accordance with Article 85 TFEU. Relations with Europol is focused on cooperation needed to accomplish tasks and objectives assigned Eurojust. Key issues of cooperation established by an agreement approved by the Council, after consulting the Joint Supervisory Body.

Eurojust shall establish a close cooperation with the European Anti-Fraud Office (OLAF), the national members of Eurojust as recognized by Member States competent authorities in connection with investigations conducted by OLAF.

Eurojust cooperate with third countries. Where Eurojust has concluded a cooperation agreement with a third State, that State may seconded to Eurojust liaison magistrate. According to the latest European rules and Eurojust may send liaison magistrates in third countries.

Eurojust also may develop contacts and exchanges with international non-operational nature in order to achieve its objectives.

Obviously, the most significant are the relationships we have Eurojust European Judicial Network. They are relations based on consultation and complementarity and include the following:

- Eurojust has access to information obtained centrally by the European Judicial Network and telecommunications network;

- national members of Eurojust may attend meetings of the European Judicial Network and the people who form the contact points of the network may be invited to meetings of Eurojust.

Moreover, Eurojust hosts the secretariat of the European Judicial Network, benefiting from its logistical. In addition to the administrative and secretarial functions of Eurojust European Network of contact points on the persons responsible for genocide, crimes against humanity and war crimes, and the secretariat of the Network for Joint Investigation Teams.

3. Operation of Eurojust

Eurojust's activities are conducted with the Commission and under the control of the Council and the European Parliament.

Article 85 TFEU provides that Eurojust structure, operation, field of action and tasks shall be established by regulations adopted under the ordinary legislative procedure. Article also provides that these regulations to determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

Under the provisions of the Treaty of the European Union College Council for approval proposed internal rules of operation of Eurojust.

The functioning of Eurojust must be distinguished as they exercise powers as a body, the national representatives and management tasks.

As a College, Eurojust is competent:

- a) ask the competent authorities of the Member States, in the types of crime and offenses referred to in article 4, paragraph 1 of the decision to take the following measures:
- to conduct an investigation or prosecution acts on a precise action;
 - to accept that if a competent authority of a Member State is better placed to conduct this investigation and prosecution documents on a precise action;
 - to coordinate between the competent authorities of the Member States concerned;
 - to form a joint investigation team¹.
 - ensuring mutual information by the competent authorities of the Member States on investigations and prosecutions which it has knowledge and which affect the European Union or which might be interested Member States other than those directly concerned;
 - assist the competent authorities of Member States, at their request, in order to better coordinate investigations and prosecutions;
 - works to improve cooperation between the competent authorities of the Member States, especially based on the analysis made by EUROPOL;
 - cooperate and consults the European Judicial Network, including using documentary database and contributing to its improvement;
 - can provide logistics support (translation, arrange for coordination meetings).

As ways of working Eurojust meetings uses direct intervention and cooperation.

Eurojust direct intervention involves the right to require Member States to carry out investigations and prosecutions regarding certain facts, and the reciprocal obligation to respond to requests for assistance made by the competent national authorities. All direct intervention is considered Eurojust's contribution to resolving conflicts of jurisdiction where, for a particular case, several national authorities able to conduct investigations or prosecution. It is also facilitating direct intervention that Eurojust attaches the enforcement of international legal instruments such as the European Arrest Warrant. Also, the way is același qualified financing by Eurojust for the creation of joint investigation teams to meet their operational needs.

Cooperation meetings are organized forms of analysis and information aimed mainly certain forms of crime defined as priority by the Council of the European Union: terrorism, drug trafficking, human trafficking, fraud, corruption, cybercrime, money laundering and other activities related the presence of organized crime groups in the economy. Participate in these meetings judicial authorities, research and the criminal prosecution of the Member States and, where appropriate, third countries. In this framework these cases are solved specific problems and action plans are operative on, for example, simultaneous arrests and searches.

Future prospects of Eurojust

Since its establishment, Eurojust has facilitated coordination and cooperation between national investigating and prosecuting authorities to investigate cases affecting several Member States. He helped to build mutual trust and create a link between the wide variety of legal systems and traditions of the EU. The rapid resolution of legal issues and identifying competent authorities of other countries, Eurojust facilitated execution of requests for mutual recognition and enforcement tools.

This organization has grown continuously in recent years, now becoming a central actor in judicial cooperation in criminal matters¹.

In this context, many discussions have been initiated on administrative reform and strengthening governance, parliamentary involvement at European and national level and any additional skills and future relations with Eurojust future institution of the European Public Prosecutor (EPPO)¹. It was also discussed the future of Eurojust in special informal meeting of the Council on the occasion of the tenth anniversary of Eurojust, in February 2012.

On July 18, 2013 was made public in Brussels, the proposal developed by the European Parliament and the Council on a new regulation of the agencies, which envisages "a single legal framework and upgraded" to change in inclusively regarding name, Eurojust are to be called "European Union Agency for Cooperation on Criminal Justice" (Eurojust), which is the legal successor of Eurojust.

The proposal for a Regulation was filed simultaneously with the proposal for a Regulation establishing a European Prosecutor, it is expected that the European Public Prosecutor be established from Eurojust, as provided in Article 86 TFEU that Eurojust can support more more.

The new regulation envisages firstly improving governance structure and Eurojust efficiency by allowing a clear distinction between the two components of the College, depending on the type of functions they perform, operational (basic activity of Eurojust support and coordinate investigations nationally), compared to management (relating, for example, the adoption of the Agency's work program, annual budget and the annual report.

The aim is also to improve the operational effectiveness of Eurojust homogeneously defining the status and powers of national members and defining a role for the European Parliament and national parliaments in the evaluation of Eurojust's activities in accordance with the Treaty of Lisbon.

Existing mechanisms remain operational effectiveness of Eurojust, including the permanent coordination (SCP), Eurojust national coordination system (ENCS), exchanges of information and tracking requests Eurojust.

It could be considered other new ways of extending the powers in accordance with the relevant provisions of the Treaty, including the granting of additional powers to the national member of Eurojust, strengthening the powers of Eurojust College.

Conclusions:

Eurojust is a European agency independent legal personality, made up of representatives of the Member States or third countries with which it has statelet agreements, whose role is to assist the national authorities for criminal investigation for activities effectively combat various forms of the cross-border crime.

Although Union body was exercising certain powers and through its national members representing Member States and non EU officials or agents.

Areas where Eurojust may decide to intervene in article 4 paragraph it established the Decision 2002/187 / JHA also refers to certain types of crime such as cybercrime, fraud, corruption, crimes affecting the financial interests of the EU, washing products from crime, environmental crime, participation in a criminal organization; other offenses committed in connection with the types of crime listed above) or types of crime such as terrorism, illicit drug trafficking, human trafficking, illegal immigration pathways, illicit trafficking of radioactive and nuclear materials, illicit vehicle, euro counterfeiting, money laundering activities related to international criminal.

As ways of working Eurojust use direct intervention and cooperation meetings.

Forms of direct intervention involve requesting Member States to conduct investigations or prosecutions with respect to certain facts; response to requests for assistance to the competent national authorities; contribution to resolving conflicts of jurisdiction where, for a particular case, several national authorities able to conduct investigations; enforcement of international legal instruments, finance JIT and to cover their operational needs.

Cooperation meetings aimed at analysis and mutual information on the types of crimes defined as priority by the Council of the European Union: terrorism, drug trafficking, human trafficking, fraud, corruption, cybercrime, money laundering and other activities related to organized crime groups in the economy.

Administrative reform and strengthening governance, expected the new rules project whose form was present in Brussels on 18 July 2013 by the European Parliament and the Council aims inter alia, parliamentary involvement at European and national level and some additional powers, arising from its connections future institution of the European Public Prosecutor (EPPO).

¹ Consolidated versions of the Treaty on European Union and the Treaty on European Union and the Protocols and Annexes thereto, which we quote, resulting from the amendment by the Treaty of Lisbon, signed on 13 December 2007 in Lisbon, which entered into force on 1 December 2009 the official versions of these releases have appeared under the Council of the European Union, Brussels, 28 May 2010, REV. 2 6655/2/08.

¹ Right to liberty and security is established in Title II Freedom Charter of Fundamental Rights of the European Union Official Journal of the European Union C 83/391 of 30.3.2010: Article 6 Everyone has the right to liberty and the siguranță. Dreptul freedom of movement is also protected by art. 2 of Protocol no. 4 to the European Convention on Human Rights and Fundamental libetăților, namely: 1. Anyone lawfully within the territory of a state has the right to move freely and to choose his residence

¹ First steps in this direction have been done in the early "90, through the force of the Schengen Agreement and Convention accompanying this agreement, but these documents aimed at a limited number of states. Maastricht Treaty, signed on 7 February 1992 and entered into force on November 1, 1993, creates a legal framework for cooperation extended to the entire community through the establishment of the Third Pillar Affairs Meanwhile -Justiție and justice and home affairs issues internal is treated to a strictly intergovernmental. Since then, the degree of integration between the Member States in relation to these issues and the role of the European Parliament and the Court of Justice continues to grow .. The text of the Treaty of Amsterdam this objective is explicitly stated as a separate objective the European Union. Performed Amsterdam Treaty incorporated into European law by a Protocol annexed to this Treaty, the Convention implementing the Schengen agreements with the Schengen Agreement in 1990, thus expanding the possibilities for the establishment of institutional structures at Community level aimed at defend and strengthen European security space and justiție. Lisbon Treaty divided the topics related to the area of freedom, security and justice in four areas: policies on border checks, asylum and immigration; judicial cooperation in civil matters, judicial cooperation in criminal matters, police cooperation. Luke Iamandi cooperation in justice and home affairs co-dimension of European countries, the Police Academy "Alexandru Ioan Cuza".

¹ Luke Iamandi cooperation in justice and home affairs cooperation dimension of European countries, the Police Academy "Alexandru Ioan Cuza",

¹ The legal framework for the functioning of the European Judicial Network was subsequently amended by Decision 2008/976 / JHA. European Judicial Network consists of central authorities of each Member State responsible for international judicial cooperation. For the network, each Member State was established one or more points of contact, according to the internal rules of the State, and the contact points shall ensure effective coverage of the entire territory of that Member State. Contact points are active intermediaries in charge of facilitating judicial cooperation between Member States to provide practical information and local legal authorities, to improve coordination of local authorities for crimes that require such coordination. Also, each Member State shall appoint a national correspondent and national correspondent technical. . Peer review procedure was established by Joint Action no. 97/827 / JAI of 5 December 1997 on the establishment of evaluation mechanism and implementation at national level of international instruments on the fight against organized crime.

¹ Eurojust was established by Decision 2002/187 / JAI as by Decision 2009/426 / JHA were made to improve the organization and functioning of the body

¹ Elena Cismaru: General on developments in EU legal instruments specific to the field of judicial cooperation in criminal matters, Information Bulletin No. 2/2012, page 9, edited by the Legislative Council

¹ Romania's representative is appointed in accordance with Article 2 of Law no. 58 of 22 March 2006 ratifying the Agreement on cooperation between Romania and Eurojust signed in Brussels on December 2, 2005, and for regulating measures on representation with Eurojust, in the period preceding accession and after accession to the European Union. The appointment is made by the President on the proposal of the Minister of Justice, following a selection procedure. The mandate is for three years, with the possibility to reinvest once.

¹ The administrative structure of Eurojust is an administrative unit of about 200 people who support sending a prompt response to calls for assistance from national authorities or other bodies of the European Union.

¹ Eurojust is based on the principle that the whole is more significant than the sum of its parts and that cross-border issues such as terrorism and organized crime requires increased cooperation between judicial authorities.

¹ Judge Asist.univ.drd Camelia Bogdan: European judicial bodies specializing in preventing and combating crime, www.criminologie.ro

¹ With the entry into force of the Treaty of Lisbon on 1 December 2009, the majority rules and policies on justice and home affairs are proposed by the Commission and approved by both the European Parliament and the Council, the latter acting by qualified majority instead of unanimity, which will streamline decision-making

¹ Joint investigation teams can be established under Council Framework Decision nr.2002 / 465 / JHA It was provided by Article 30 of the Treaty. These teams are not intended to transform the bi-national or multinational permanent structures, but specific cases, it is necessary to gather information and evidence Framework Decision provides that Member States must set up an investigation team to define composition, purpose and tenure is also necessary that Member States which set up a team to aibăposibilitatea decide the extent possible and in accordance with applicable law, as the activities of the team to participate persons not competent authorities Member States, in particular representatives, for example, Eurojust, Europol, the European Anti-Fraud Office's (OLAF) or representatives of third countries and, in particular, representatives of law enforcement services in the United States. In such cases, the agreement setting up the team should specify aspects of liability for such representatives Ase see Cristian Eduard Stefan, joint investigation teams, effective tool to fight crime and terrorism, in the "right" No. 2/2009, p. 212

¹ Assessments are taken from the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European Union Agency for Cooperation in Criminal Justice (Eurojust), published at Brussels, 18 July 2013 (13.08), (Or.) Interinstitutional File: 2013/0256 (COD) 12566/13

¹ Such discussions were held in seminars and conferences such as strategic seminar "Eurojust and the Lisbon Treaty" for more effective action "(Bruges 20 to 22 September 2010) and the conference organized by ERA" 10 years of Eurojust. Operational Achievements and Future Challenges ", held in the Hague from 12 to 13 November 2012.