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EUROPEAN STUDIES FACULTY

THESIS SUMMARY

EUROPEAN PARLIAMENT – GENESIS AND EVOLUTION0
CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

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Key Words

Risk analysis on organised crime – OCTA
Mutual assistance in civil matters
Mutual assistance in criminal matters
European central criminal records office
Cepol
Justice and Internal Affairs Council (JAI)

Commission for civil liberties, justice and internal affairs
Joint Investigation Teams
Eurojust
Europol
Liaison magistrates
European arrest warrant
OLAF– Anti-fraud Office
Bagdad, Greensea, Trufas operations
European prosecutors office
Judicial EU police
The Hague programm
Tampere programm
European Judicial Network
CARIN Network
Area of freedom, security and justice

Cap. I. Introduction

Europe united by mutual consent was designed over the centuries, different variants of illustrious figures like Dante, Podiebrad king of Bohemia, Henry IV, the abbot of Saint-Pierre, Napoleon I and Napoleon III, Giuseppe Mazzini, Victor Hugo, Paul Valery, Ortega y Gasset, R. Coudenhove-Kalergi, Aristide Briand, Jean Monnet and Robert Schuman, Charles de Gaulle, aware that the European construction process of forming economic unity, political and institutional effectively broke after World War II, responding to specific needs of the contemporary world.

A reality of the concept of Europe united by mutual consent between the wars was attempted by Briand Project of European Union. Major political figures, French Prime Minister Aristide Briand accepted the honorary presidency of the pan-European movement led by Austrian Count Richard Coudenhove-Kalergi and raised the idea of pan to the rank of state policy. Briand Project of European Union is when, for the first time in history, the idea of united Europe by mutual consent was promoted in the field of intellectual utopias in the official governmental policy. Its aim was to create an institutional framework to ensure peace and stability of the continent, and the practical application of treaties of peace, while the treaty with Germany was insufficient and the League of Nations was ineffective. For the first time in history, a great power the government has promoted this idea formally on the international scene, asking all European states to decide on his solemn and build a joint European Union. Through this project the largest Briand debate sparked up when the idea of united Europe in all European countries, the governments and parliaments, political parties and media, political and intellectual elites of society as a whole. Invited to become a founding member of the European Union in 1930, Romania participated fully in the international debate. EU precursors in the gallery must have at a number of Romanian personalities such as Nicolae Balcescu, Dinu Bratianu, and in the interwar period - Iuliu Maniu (who believe the national ideal is not reached with Great Union of 1918, but must complete the European unification), Ion Mihalache, Virgil Madgearu, Grigore Gafencu (PNT), IG Duca and Nicholas Argetoianu (PNL), Nicolae Iorga, Dimitrie Gusti and King Carol II himself. Romanians have a pro-European historical tradition.

Only in the postwar era of European integration became a living reality in progress. W. Churchill in 1945 gave his famous speech in Zurich calling for the creation of the United States of Europe (forerunner of the Fulton speech that launched the concept of Cold War and Iron Curtain). As a result

have developed a series of pro-European movements after an ideological typology: the christian democrats, social democratic, conservative, liberal. Pro-European campaigners met in the Hague Congress (1948), and a year later (1949) created the Council of Europe.

On 9 May 1950, French Foreign Minister Robert Schuman, inspired by Jean Monnet, proposed placing the steel and coal resources of France and Germany under a common High Authority, which meets the needs of the needs of each of the two states. Application of this plan takes place once the Treaty of Paris of 18 April 1951, creating the European Coal and Steel Community. ECSC was the first instrument of European integration.

After 6 years after the Treaty of Paris, the signatories of the ECSC, France, Germany, Italy, Luxembourg, Belgium and the Netherlands, from a draft submitted by the Belgian Paul Henri Spaak and the Benelux countries initiative, decide to sign two treaties in Rome March 25, 1957 and the establishment of two new bodies: European Economic Community and European Atomic Energy Community. So, three dealt with the foundations of European construction, the foundation of European Union today. Of these, the European Economic Community is considered as the most important, the legal basis on which it gives the process of economic integration. Its objectives are still current: tariff and customs union, common market functioning, the free movement of goods, services, capital and persons and common policies.

Amsterdam Treaty of 1992 provided an area of freedom, security and justice in the territory occupied by the European Community protecting the freedom and equal citizenship judicial treatment of Member States. Creating this space correlation with Member States was assumed, which could not be done by institutions and instruments available at the time. Has appeared as a clear need for reform signing the 1992 Treaty of Maastricht by subscribers Member States and entered into force a year later. The Treaty provides for the creation of a European Union one based on the existence of three pillars: Pillar I is comprised of treaties previously signed by the Member States: European Economic Community, Euratom and the ECSC Treaty but were abolished by the new integrated into it, Pillar II and foreign policy common security and Pillar III is made up of cooperation in Justice and Home Affairs. New Union membership in recent years have created a need for a new European treaties changes, it resulted in the entry into force of the Treaty of Lisbon on 1 December 2009. This grant Union based on pillars abolish its structure, creating the institution of President of the Union of European Commissioner for Foreign Affairs merged with the High Representative, and one of the most important changes, Parliament acquired the status of co In conjunction European Council and received increased powers to control other European institutions. Decisions could be taken by majority vote, unanimity is not always necessary. The Lisbon Treaty was a compromise between countries who wanted radical reforms and which maintains that Member States control over its institutions. The new powers that the European Parliament, the only institution elected in a democratic manner, led to the democratization of decision-making at EU level.

But beyond the European integration process is a pragmatic force, namely the specific concerns of controlling economic interdependence of European countries. Creating a single European market with free movement of goods and services, has strengthened the process of interdependence, which necessitated the emergence of a common policy in this regard. A common market requires common rules, and compliance by all, a stable ground and a way of harmonizing the work of public authorities.

Cap. II. Operation, organization and components of European Parliament

Political systems of European countries are based on the formation of parties in the spirit of competition. According to an interesting theory, political parties were founded as a result of pre-existing cleavages in response to major crises of European policy development. Political parties have always played an important role in democratic societies. This role is eloquently demonstrated by the functions that political parties - genuine mediators between society and government - meet. Among them are: identification of targets in the form of ideologies and programs, articulation and aggregation of social interests, strengthening public participation in the system, elite recruitment and training of government.

Political groups were placed in category formations of European Parliament, along with parliamentary committees and delegations. Specialists in the field of Community law, as they have defined organizational formations, may join based on political affinities. Political groups based on ideological rather than the nationality of members are liable to compensate, to some extent, the national character of European Parliament elections. The groups were officially created in 1953 by the Joint Meeting of the European Coal and Steel Community (ECSC) and the first three groups were created in July 1953 by socialists, christian democrats and liberals.

At the front, after the 2009 elections, there are eight transnational political groups in Parliament:

1. European People's Party (EPP) - 265 members.
2. Progressive Alliance of Socialists and Democrats (S & D) - 184 members.
3. Alliance of Liberals and Democrats for Europe (ALDE) - 88 members.
4. Greens (environmentalists) / European Free Alliance (Greens / EFA) - 42 members
5. Conservatives and Reformists Group (ECR) - 54 members from 8 countries.
6. European United Left Group / Nordic Green Left European (GUE / NGL) - 35 members from 12 countries.
7. Europe of Freedom and Democracy (EFD) - 33 members.
8. Non-attached Members

Each political group has its own internal organization.

Rules governing political parties at European level are found in Regulation no. 2004/2003 of the European Parliament and the Council of 4 November 2003.

Immunities of the European Parliament aims to ensure the independence of parliament in exercising its mandate and put it under protection from abusive acts or acts of administrative authorities, judicial or individuals. Immunity members' is governed by the Protocol on the Privileges and Immunities of the European Union.

At the beginning, and half of each term (ie every two and a half years), Parliament shall elect officials: the president, 14 vice-presidents and five Quaestors. Meanwhile, some political groups use this occasion to renew the management staff that, although all members of the group and not by Parliament as a whole, plays a significant role in the management of the latter. Presidents can be re-elected. Much of the detailed work of Parliament takes place in the parliamentary committees, where members of Parliament can play a crucial role. After the elections of 1979, 16 standing committees were up. Gradually, by 1999, their number increased to 20. Parliamentary Committees are responsible for preparing the plenary session of parliament. Their task is to develop reports on legislative proposals on which Parliament has been notified or consulted and the own-initiative reports.

Parliamentary committees are:

1. AFET - Foreign Affairs
2. DEVE – Development
3. INTA - International Trade
4. BUDG – Budgets
5. CONT - Budgetary Control
6. ECON - Economic and Monetary
7. EMPL - Employment and Social Affairs
8. ENVI - Environment, Public Health and Food Safety
9. ITRE - Industry, Research and Energy
10. IMCO - Internal Market and Consumer Protection
11. TRAN - Transport and Tourism
12. REGI - Regional Development
13. AGRI - Agriculture and Rural Development
14. PECH – Fisheries
15. CULT - Culture and Education
16. JURI - Legal Affairs

17. LIBE - Civil Liberties, Justice and Home Affairs
18. AFCE - Constitutional Affairs
19. FEMM - Women's Rights and Gender Equality
20. PETI – Petitions

Temporary Committee:

1. CLIM - Climate change

Subcommittee:

1. DROI - Subcommittee on Human Rights
2. SEDE - Subcommittee on Security and Defence

Parliament has established a network of links with non-EU countries, in particular, with its correspondents in national parliaments. This requires a system of delegations to liaise mentioned, but also to meet specific obligations arising from agreements concluded by the European Union with third countries.

European Parliament meets in Strasbourg for the 12 periods of monthly plenary sessions, including the budget session. Brussels additional plenary sessions. Also in the Belgian capital held and committee meetings and parliamentary groups, to facilitate contact with the Commission and the Council, two weeks are reserved for meetings of parliamentary committees, and a week in meetings of political groups. MEPs have offices both in Strasbourg and the Brussels.

European Parliament is absolute master on its agenda. Can discuss what they want, when they want, depending on the priorities established. Before each session a draft agenda of the Conference of Presidents, the recommendations of the Conference of Presidents, taking into account the agreed annual legislative program, is drafted.

The right to vote is personal and does not allow voting by proxy. Two methods to vote are used: by simply lifting the hand and electronic voting, is now used, usually. Secret voting is compulsory for choosing the Commission President, Ombudsman, vice president and Parliament Quaestors. For the validity of the vote to be fulfilled two conditions: a quorum is met if and majority. In the parliamentary committees, the quorum is met when the room is one quarter of the members who requested to adopt an act. Majority refers to the number of votes necessary for decision is binding and valid. From 1 January 2007, after Romania and Bulgaria, the European Union there are 23 official languages. At that time, Irish became an official language.

European Parliament is assisted by a Secretariat, approximately 5000, selected by competition from all EU countries and are under the authority of a Secretary General. The Secretary General is the highest level official with the European Parliament and is appointed by its Bureau. Since 1958 until now there were five general secretaries. During 1952 - 1960 was the Nera to Babberich Frits, 1961 - 1979 was Hans North 1979 - 1986 was Hans Joachim Opitz, 1986 - 1997 was Enrico Vinci and 1997 to date is Julian Priestley. The secretariat is composed mainly of Directorate General (DG).

Cap. III. LIBE Commission

Commission on Civil Liberties, Justice and Home Affairs (LIBE) is vigilant in terms of rights and freedoms of citizens, overseeing the work of other European institutions (European Commission, European Council, etc.), identifying and proposing solutions to various problems of citizens. His judicial duties make it a key player in creating the Area of Freedom, Security and Justice, imagined by European leaders and community language introduced with the Treaty of Amsterdam. LIBE Commission has started since September 2004, its powers and duties remained unchanged up to the first half of 2009. Area of freedom, security and justice mean a general consensus of all member states to harmonize national systems of legislative, judicial and police and new European judicial agencies: reform of Europol, Eurojust and CEPOL.

The Commission currently has 53 members and 53 alternates, is one of the largest of Parliament from all parliamentary groups, its president is the Spanish Juan Fernando Lopez Aguilar belonging to parliamentary group of the Progressive Alliance of Socialists and Democrats in the EP. Depending on the political group membership, members are selected from the list of LIBE Commission who's skills relates mainly to political group they belong. For example, members of the LIBE socialists tend to treat social protection issues and human rights; the Liberals are more concerned with issues of cooperation in civil and criminal matters. However, the above does not represent a general rule, each member is free to treat any subject in its own initiative, if it falls within the competence of the commission.

Cap. IV. LIBE Commission and its Role in Creating the Area of Freedom, Security and Justice.

An area of freedom, security and justice is a major project implemented by the European Union. The idea is to provide greater freedom and justice in Europe for Europeans. The concept was introduced by the Treaty of Amsterdam. It replaces the concept of justice and home affairs under the Treaty of Maastricht. The EU is committed to a new stage in its development by signing the Constitution in October 2004, adopted the Hague Programme in November 2004 and the Hague Action Plan in June 2005. European Parliament Committee on Civil Liberties actively support the creation of this space. Europeans are facing, in particular, problems arise due to differences between Member States' judicial systems. Union's role is to act accordingly to overcome these obstacles. Creating space can give citizens better access to legal aid in cross-border disputes. Legal rules adopted for this purpose can provide citizens involved in legal action against an individual or a company established in another Member State benefiting from such aid. Similarly, the Union has developed a mechanism to improve the process of providing compensation for victims of crime, JHA Council Directive of 29 April 2004 establish for Member State a scheme providing compensation on victims of crime. This makes it possible for a person who was the victim of a crime in another Member State to obtain compensation more easily by creating a uniform legislation in all Member States to reach agreement between themselves. The "Schengen visa" has been introduced to improve the mobility of non-EU country. For those wishing to enter the Union for a stay of three months, the consular authorities of a Member State may issue a visa valid throughout the Union. Also, the JHA Council decision in 2005 established that any person involved in a criminal case may have certain rights in the EU.

Space definition has the following meanings:

1. an area of freedom, where citizens can move without restriction. Since its establishment it involves the removal of internal border controls and measures for third country nationals;
2. a security zone aimed at preventing and combating the threats that hang over the Union and its citizens. EU countries work together to combat all types of serious crimes, such as organized crime, terrorism, drug trafficking, human trafficking, fraud against the Community's financial interests, computer crime and money laundering;
3. an area of justice, which includes two aspects: first, judicial cooperation in civil matters. The idea is to ensure that national legal systems do not put obstacles in their professional people (eg the European Union should facilitate the collection of debt even if the debtor is situated in another Member State) or in family life (eg, the Union can take action to prevent the emergence of conflicting judgments delivered by national courts in cases of divorce and child custody). Second, judicial cooperation in criminal matters, in order not to stop a criminal investigation at the national borders of a Member State. Union must ensure that criminals do not find a place of refuge in the Community.

However, although referred to three areas, there is only one area. The three areas are closely interlinked. It is impossible to imagine more freedom, without taking parallel measures to maintain an equivalent level of security. Indeed, it would be unacceptable to allow offenders to benefit from free movement of persons to move from one Member State to another. Similarly, security and justice areas overlap considerably. Strengthening judicial cooperation in criminal matters contributes to the creation of a security, strengthening the European system of law enforcement.

To ensure proper implementation of the Treaty of Amsterdam where they founded the area of freedom, security and justice, the Heads of State or Government adopted a roadmap known as the 'Tampere Programme' (named after Finnish city that met the European Council). Objectives set out in these findings were then translated into concrete measures by the European Commission.

Tampere program expired in 2004 and on 5th November 2004 European Council adopted a new agenda: the Hague Programme. This is an ambitious schedule for the next six years. The Hague Programme take into account the objectives established by the Constitution to create an area of freedom, security and justice.

LIBE Committee, as an institution directly involved in creating the area of freedom, security and justice, made various reports, by its members, showing the degree of implementation of this project. Although most of the times the Commission dealt with specific issues brought before Parliament by the European Commission or the European Council, which conducted an analysis on the whole process of creating this space. The first warning sign of how extremely difficult to implement reforms both by European institutions and by Member States was held in Graham Watson, LIBE member, report. They point out that treaties signed by European institutions in respect for rights and freedoms of European citizens are not always provided in the Community. Watson referred to the anti-globalization protesters restrictions. Citing the right to free assembly and protest, the rapporteur concludes that the measures taken by local police violated the fundamental rights of European citizens. Hence, he concluded that while treaties and conventions on the rights of citizens are signed by all States at European level, the subsidiarity principle and national legislation of the rights of citizens are violated.

"Area of freedom, security and justice" does not mean simply adopting a number of decisions on asylum, immigration and judicial cooperation, even if this is done with respect for fundamental rights. The creation of this field is aimed at a wider objective, not only fundamental rights, but their promotion, not only to develop a mutual recognition of current practice in Member States, but to ensure that such practice is based on a common foundation of common principles. The concepts of mutual recognition and judicial harmonization are not contradictory. Confidence, a vital component in the process of mutual recognition, is created when there is certainty that what is being done throughout Europe is made in accordance with common principles, and this requires a reasonable level of legal harmonization. Mutual recognition and harmonization of legislation are not alternatives, they complement each other. Article 29 TEU refers to the EU's responsibility to provide citizens with "a high level of safety within an area of freedom, security and justice." But one must say that the results obtained so far are not commensurate with the ambitious claims. Area of freedom, security and justice must fully respect the principles of democracy and the rule of law.

Cap. V. LIBE Commission and its role in shaping a coherent EU justice policy

The notions of "legality" and "justice" we find listed among the values that are based European Union. Although these notions are vague and ambiguous by their very mention illustrative in Article 2 of the Constitutional Treaty, because the legal framework for development cooperation in justice and home affairs, they go beyond the barrier and emerges as the true values of European space and its citizens.

Specifically, the community needs to ensure protection of its citizens towards international criminality, organize equal access to the judiciary and fundamental rights wherever they are in the community. All these premises, agreed principles, operationalized in the EU cooperation on justice and home affairs, which started in 1975 by the appearance of a legal framework related to immigration, asylum, police cooperation and judiciary. If first, related only to free movement of persons, especially migrants who try to find a job abroad, cooperation has expanded the early seventies, towards other important areas: networks of organized crime cross-border drug trafficking, immigration and terrorism. After signing the Convention Implementing the Schengen Agreement of June 19 1990, between certain European countries (France, Germany and countries in the Benelux) was agreed elimination of internal border controls and raise their resulting external border control. A Regulation harmonize visa regime, asylum, judicial and police cooperation. The complexity of European integration on national interests and

differences and / or political hampered institutional construction because it was associated with giving up some prerogatives of national sovereignty.

By signing the Treaty on European Union in 1993 a third pillar was added to the community structure: cooperation in justice and home affairs issues.

One can easily see that with each change treaties, Community cooperation between Member States in the field of justice enhances policies and become more coherent and created institutions which prove their effectiveness. Referring to various institutions that contribute to the harmonization efforts of Member States to coordinate legal proceedings, there are : Liberty Commission for Civil Justice and Home Affairs of the European Parliament, the European police service - Europol, Eurojust, CEPOL-European Police College. All these have a role to increase the efficiency of each Member State in the fight against cross-border criminality.

Cooperation in criminal matters.

Mutual assistance to Member States in criminal matters has two forms:

1. major judicial cooperation, extradition processes related to the original. Following the entry into force of the Framework Decision on 1 January 2004, the European arrest warrant has replaced the traditional extradition process;
2. minor judicial cooperation with regard to other forms of mutual assistance. Difficulties remain, mainly on a practical level. Indeed, the Union is developing, simultaneously, several tools based on the principle of mutual recognition.

Since 1999, the EU's main achievements were the creation of:

1. European Convention on Mutual Assistance (ECMA) of 29 May 2000, which aims to accelerate the transmission of applications and improve certain forms of mutual assistance (restitution, temporary transfer of persons and hearing-based videoconferencing) and to introduce special investigative techniques (controlled deliveries, joint investigation teams and undercover)
2. Protocol to the Convention, adopted on 16 October 2001, designed to end banking secrecy and to ensure better judicial cooperation on bank accounts.

Cooperation in civil matters.

Judicial cooperation in civil matters means:

1. adoption and implementation of common rules that allow handling by the authorities of the countries concerned individual cases involving an international dimension;
2. cooperation in the strict sense, namely mutual recognition of judicial decisions and achieve an approximation of national laws.

Member States have also adopted, on 28 May 2001

1. a decision establishing a European Judicial Network in civil and commercial matters. The main task of this structure of cooperation, composed of contact points belonging to Member States, was to facilitate judicial cooperation between states and operate an information system for the public and network members;
2. a regulation aimed at improving cooperation between courts of Member States in the management of evidence. Regulation provides the means by which to take samples in another Member State and maintain direct communication between prosecutors involved in the investigation. It also established a time limit for execution of requested judicial act.

LIBE role in simplifying the mutual assistance.

LIBE Committee report, dated 26 October 2000, supported the Convention on judicial cooperation in criminal policy, considering that the proposals of the Convention seeks a form of mutual assistance in criminal matters, meet the challenges of organized crime, particularly money laundering. The draft Convention was part of a set of measures introduced following the Tampere European Council, to create an area of freedom, security and justice.

European Commission presented on 25 January 2005 a White Paper which recommended creation of a genuine **europaean central criminal records office**.

The shortcomings of the Convention on joint assistance between Member States in judicial cooperation in criminal matters had been raised by the LIBE Committee report, dated 31 January 2000. In view of the

rapporteur, the European Convention reflects the indecision of demonstrating Member States failure to provide viable solutions, undermine the capacity of European judicial authorities to act effectively. However, the rapporteur recognizes the differences between European judicial systems, mainly related to procedure, which makes extremely difficult the process of developing a common legal codices for all EU countries.

LIBE Committee report dated April 26, 2001, explains in concrete terms the meaning of the formula of mutual recognition of judicial decisions.

In light of the LIBE Committee report dated September 3, 2002, on the creation of the European Network of Judicial Training (founded in 2000 and operational since 2005), this will be possible only if the acceptance and confidence in the judicial systems of other Member States will be encouraged among members of professions involved.

LIBE Committee Report dated May 22, 2003, recognized that establishing an efficient cooperation between the most developed economic areas of the world will contribute to more efficient fight against financial crimes, money laundering, trafficking in human beings and terrorism. Basically, the starting point of negotiations between the EU and the U.S. came immediately after the terrorist attacks of September 11, 2001.

LIBE Committee Report, dated February 3, 2005, suggested the importance of communication between judicial authorities of Member States, especially in terms of information taken from criminal records. Another report of the LIBE Committee of 21 March 2005, referred the proposal for a European Council Framework Decision on procedural rights in criminal matters across the entire EU, which contained the following rights: access to legal advice, access to interpretation and translation, consular assistance for foreign detainees and notifying them of their rights. The proposal introduces the "Letter of Rights" that have not been adopted even today, which establishes the obligation of authorities to arrest a person immediately after it is informed in writing, language and simple words of his procedural rights.

LIBE Committee report dated September 8, 2006, is considering a new proposal made by the European council to establish a framework decision in a new criminal procedure of a citizen conviction in another Member State for different offenses.

Creating the "Criminal Justice" program at the end of 2006 represented an important step in enhancing judicial cooperation between Member States, which is designed to work in 2007-2013.

This program has the following objectives:

1. to promote judicial cooperation in order to build a genuine European area of justice in criminal matters based on mutual recognition and mutual confidence;
2. to strengthen research in order to promote compatibility in rules applicable in the Member States;
3. to improve contacts and exchange of information between the legislative, judicial, administrative and legal professions respectively: lawyers and other professionals involved in the work of the judiciary to promote the training of its members;
4. to protect the rights of victims and defendants.

LIBE Committee reports on cooperation in criminal matters from 2007-2008.

On a report of the LIBE Committee of 9 May 2007, Parliament was consulted on the organization and content of the exchange of information from criminal records between Member States. The proposal was to improve communication between Member States on applications of information on criminal records. The rapporteur said that the new proposal of the Council sought to drastically reform the exchange of information mechanisms, to ensure that each Member State may provide quick response, accurate and complete requests for information received. The proposal requires Member States to exchange information regularly, just to get the latest information as and faster resolution of cases of crime. In addition, the Member State receiving the information, was required to store and update information submitted.

The LIBE Committee report dated November 7, 2007 discuss the proposal of the European Council Framework Decision on the European supervision in pre-trial stage of criminal proceedings between Member States of the European Union. The report claimed that a common European area of justice

without internal frontiers is necessary for the EU to ensure that a suspect who is not resident in the State should not be treated differently from a suspect who is resident in that state.

The year **2008** brought new contributions of the LIBE Committee in the lengthy process of harmonization of criminal law of the Member States.

The legislative framework for EU Member States includes items relating to the sentencing *in absentia*. LIBE Commission report dated July 2, 2008, analysis a proposal of seven Member States to modify four of the JHA Council Framework Decision, in order to harmonize them on the subject mentioned above. These four decisions were: Framework Decision on European arrest warrant 2002/584/JHA and the surrender procedures between Member States, Framework Decision 2005/214/JHA on the principle of mutual recognition to financial penalties, Framework Decision on the application 2006/783/JHA principle of mutual recognition to confiscation orders; framework Decision 2008/XX/JHA on the principle of mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

Propose to introduce another decision, namely the Framework Decision 2008/XX/JHA, on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences, appear. In its view, legislative alignment rules will result in conclusive terms and facilitate judicial cooperation. Furthermore, the framework will enhance the protection of fundamental procedural rights, such as the right of defense and the right to a fair trial. Main points of the proposal aimed at: quoting the correct person, taking into account the right to a retrial, the right to be represented by a lawyer.

Legislative harmonization road in criminal matters, between Member States of the Union, was supported by the creation of the European Judicial Network on 29 June 1998. This is a network of central authorities responsible for international judicial cooperation as well as judicial authorities and other competent authorities with specific responsibilities in the context of international judicial cooperation.

Finally, concerning cooperation on criminal matters between Member States of the Union, as in almost every community area, progress has been made in a very slow pace, which is characteristic of European bureaucracy and how difficult decision-making . The main problems which focused on European institutions in this area included:

1. harmonization of criminal law in Member States;
2. recognition of judicial decisions issued by a judicial authority throughout the Union;
3. achieving a European consensus on the European arrest warrant and obtain evidence;
4. European Judicial Network and development relationship with Eurojust;
5. closer cooperation between judicial authorities of the Member States.

LIBE Committee, following their powers in justice and protection of rights and freedoms of citizens, reviewed the proposed documents or the Member States or the European Commission or the JHA Council. Reports and decisions taken later influenced the European Parliament plenary. Repeatedly, the Commission criticized the extremely difficult decision-making, supporting rapid adoption of the Treaty of Lisbon would have eliminated the principle of unanimity in decision-making and should be given greater powers to Parliament. As a feature of its activity, the LIBE supported all initiatives aimed at improving cooperation in the criminal law, but ensuring the same time that citizens' rights are not violated. Clear idea of the LIBE Committee reports was that a common criminal law in all Member States can contribute to improving security in the European Union and thus the creation of the security, freedom and justice proposed.

LIBE Committee reports related to cooperation in civil matters.

The most important measure of 2006, was a European Commission proposal for a joint decision of Parliament and the JHA Council to create the program "Civil Justice" for 2007-2013, under the broader "Fundamental Rights and Justice ". By report dated December 7, 2006, LIBE Committee examined and approved the contents of the proposal in favor of its creation.

LIBE, although approved the implementation of the "Civil Justice" in December 2006, sought wider participation of the European court to review and approve the list of actions. In this stalled implementation of the program, denied in the second part of the parliamentary consultation, got a favorable opinion to start.. After much discussion and pressure from the European Commission and

European Council (meeting between Franco Frattini, EC vice-president and members of the LIBE Committee), was finally approved by the LIBE report dated June 27, 2007. The program took effect, its effectiveness will be checked annually by the European Commission, which will be responsible for proper management of EU funds allocated to it.

On May 28, 2001, decision no. 2001/470/EC came to create a European Judicial Network in civil and commercial matters. Setting it flowed from the idea that the realization space of freedom, security and justice within the Community needs to improve, simplify and expedite effective judicial cooperation between Member States and effective access to justice for persons involved in border disputes. The decision was implemented on 1 December 2002. Commission presented on 16 May 2006 a report on the network. This report shows conclusively that although the general objectives achieved in 2001, the network was still far yet to realize their full potential. To achieve the objectives of the Hague Programme on strengthening judicial cooperation and access of citizens to justice and to cope with expected growth of the tasks within the network, it must have an adequate legal framework to increase its means of action. Thus the ratio LIBE of 26 November 2008 decided to create the desired change Network through a joint decision of Parliament and the JHA Council. The reason for reform was the network to keep pace with changes in the field and achieve a closer collaboration with other international networks of this type.

Judicial cooperation in civil matters is not as well structured and organized as cooperation in criminal matters. Basically, the progress has been made with characteristic slowness of the operation of the EU.

LIBE and the fight against terrorism.

Combating terrorism represents one of the priorities to the European Union, its attention on this area increasing gradually. The resolution of 26 May 2005, following the proposal launched by the Council to create an Anti-Terrorism Action Plan, expressed support for such initiative, considering action of Member States and good communication between police agencies will be efficient. It stressed also the importance of Europol to coordinate Member States' efforts in this area.

According to the text of the resolution, terrorism represents a frontal assault on human rights and democratic societies. European Union need to promote and protect human rights and fundamental freedoms to ensure security. In view of Parliament, Member States could not fight terrorism alone.

Hague Programme.

European Council of 4 and 5 November 2004 adopted the "Hague Programme", called "Strengthening justice in the European security" as a long term program (2004-2009), relating in particular to combat terrorism.

Regarding exchange of information in judicial matters, the program stated that from 1 January 2008, will be governed by the "disponibility", a revolutionary principle which sets in the European Union, all agencies implementing law services of the Member States and need certain information in order to perform their work can obtain them from another Member State. Referring to the extent of the anti-terrorism in particular, the Hague Programme underlines the fact that, to prevent terrorist actions, Member States do not have to confine the activities of the maintenance of their own security but to channel it into the Union's security.

Recommendations, decisions and reports of the Commission in support of judicial cooperation.

An important step in increasing of cooperation between member states on justice and home affairs was the Decision. JHA Council 2001/470/EC of 28 May 2001, submitted for debate in Parliament only in 2008. It is related to the creation of a European Judicial Network, which to be competent both in civil and commercial. By report dated November 26, 2008, the Parliament express themselves to unconditional support for this initiative, taking the permission to do some ads.

Cooperation between judicial authorities of the Member States was also a subject of intense debate. The Parliament's resolution of 23 June 2006 underline the idea that existing forms of bilateral cooperation not always meet the European objectives. A big wining in the fight against European criminality and the harmonization of legislation of Member States it represents identical arrest warrant adoption all throughout the EU.

Cap. VI. Agencies applying judicial cooperation

EUROPOL

Europol is a law enforcement organization of the European Union dealing with criminal organizations. Its purpose is to enhance efficiency and cooperation between Member States' competent authorities to prevent and combat organized crime and international terrorism. Creation of Europol was decided by the Maastricht Treaty of 7 February 1992. Based in The Hague, Netherlands, Europol started with a timid activity in January 3, 1994 with Europol Drugs Unit. Ratification by all Member States and entry into force occurred on 1 October 1998. Activities of the Agency began on 1 July 1999.

With time other areas of crime were added. On 1 January 2002, Europol's mandate was extended so that all forms of international level crime are listed in the annex of the Europol Convention and the 2010. Main novelties the new decision are bringing: integrating Europol into the EU's institutional gear (providing legal personality to this agency), the Agency's budget consists of subsidies from the EU general budget, creating national units to connect to every state (liaison officers at Europol headquarters), encompassing all over time changes brought by subscribers of the European Council (eg by Council Decision 511/2005 dated 12 July 2005, Europol is designated Central Office for Combating euro forgery) Europol members can participate in joint investigation teams with the agreement of the Member States to investigations, create national bodies to control the exchange of personal data.

Europol can ask a Member State to initiate an investigation in a certain area, the Member State being obliged to respond IF the agency investigation was started or not. If not, the Member State We need to give reasons. If such reasons are related to security or safety of individuals, it may refuse the transmission of reasons. Liaison officers establish relationships between national and Europol and facilitate exchange. They will work at Europol headquarters, but their expenses will be borne by Member States. In the context of Europol's new decision, the agency has new powers to collect information about the activities of criminal and broader area in investigating serious crime. Director, Rob Wainwright said when new decision was brought: "We take advantage of this period of reform, initiated by the Treaty of Lisbon, to establish Europol as the main information center and support of criminal operations against the Union. Working with Member States, we are ready to play an important role in securing Europe. "

The agency in the period 2004 – 2008

For **2004**, efforts were made in five areas related to organized crime: drug trafficking, migration and illegal human trafficking, combating terrorism, money counterfeiting, financial crimes including money flushing. Resources were channeled to obtain information about criminal organizations that activates in the European Union, especially in southern and eastern Europe. To this end, the JHA Council approved, by decision of 25 October 2004, Director of Europol initiative to start talks with Moldovan and Ukrainian judicial authorities and sign cooperation agreements. In 2004 they were taken different activities to enhance the methods designed to investigate criminal organizations.

Year **2005** brought significant progress in coordinating the fight against organized crime in Europe. Europol Convention does not allow investigation of the agency alone, but it guarantees only a secondary role, like support for various information and technique to police officers from Member States, reports and risk analysis on in different areas of crime.

So in 2005, Europol provided analytical support to the so-called documents (AWF-Analysis Work Files) for investigations in progress. 18 such tests were made by subscribers agency, covering all areas of the mandate of Europol.

Significant work to transform the agency into an efficient body of judiciary cooperation of Member States for **2006** was the publication for the first time of the risk analysis on organized crime (OCTA-Organized Crime Threat Assessment). Its main objective was to assist Member States to establish their priorities and actions of police agencies.

For 2006, the main instrument of cooperation between Europol and Eurojust in strategic issues was the management committee created to monitor implementation of the agreement and to establish new strategies and priorities. Joint investigation teams between Eurojust and Europol represents one common major project since 2006.

For **2007**, Balkans area was a priority for Europol, which has managed to successfully fulfill Member States expectations. Onset of action of the three protocols to the Europol Convention of 2007 allowed the agency to align its projects to the needs of Member States. In the process of assisting Member States in the fight against organized crime, Europol did progress. For the first time agency published a report on the terrorist phenomenon in the EU (EU Terrorism Situation and Trend Report TE-SAT).

Implementing the program OASIS (Overall Analysis System for Intelligence and Support-System) was done in 2007.

Developing relations with Eurojust was another objective of Europol in 2007. The two parties efforts have been made to create JIT - Joint Investigation Teams. At the meeting in Hague 29/30 Nov. 2007 the two announced the creation of a website that can be accessed by members of both agencies. The first realization with the aim of setting up joint investigation teams, as had been outlined in the Treaty on European Union art.34 al.3 was the Council Framework Decision of 13 June 2002.

During **2008** one of the main Europol concerns was to expand its network.

Regarding illegal migration, Europol participated actively in a number of significant operations. Thus, early in the **operation Greensea** two criminal networks were stopped, one Chinese and one Turkish, facilitators Chinese illegal immigration to UK. They also were involved in other criminal activities such as flushing money and drug trafficking. In June, Europol contributed to **operation Baghdad**, which was initiated by the French authorities. This was a major operation involving more than 1,300 police officers. They made arrest and investigations in Belgium, France, Germany, Greece, Ireland, Netherlands, Norway, Sweden and the UK. The operation was aimed at identifying and dismantling a vast network of Iraqi origin which facilitate illegal immigration of people across the Union from Afghanistan, China, Turkey, Bangladesh and Iraq. In November, Europol participated in the **operation Trufas**, lead by Spanish authorities, which resulted in the arrest of more than 60 suspects as part of a international network illegally introducing people in EU. This network placed in EU at least 3,500 immigrants, mostly from Ukraine and Moldova.

Annual review of the agency mention that Romanian officers work focused on: credit card fraud and human trafficking. The report stress active involvement of the Romanian officers in carrying OCTA documents particularly in the areas listed above. However, Romania representation in Europol is very little compared with other states, in 2008 with only two officers assigned, compared with Germany and Belgium, which each have 40, France 31, Netherlands 63, and Italy 35. Number of Romanian officers can have an explanation, the fact that Romania recently joined the European Union and don't have a tradition of cooperation with this Agency. Such an explanation is strengthened by Bulgaria who had also only two liaison officers to Europol in 2008.

EUROJUST

Eurojust is a European Union agency established in 2002 aimed at promoting and improving the coordination of investigations and prosecutions conducted by competent judicial authorities of the EU Member States, when faced with serious trans border organized crime.

Eurojust was established by Ministerial Council Decision of 12 November 2002.

In 2009, a new decision was adopted with the plan to encrease the competences of the Agency. This decision appeared in the context of the EU institutional changes, due to the Lisbon Treaty.

Eurojust is the first permanent judicial network established worldwide. It's a host for meetings between investigators from different countries on specific cases or at a strategic level for different types of offenses. The agency fulfills a unique role as a permanent judicial body in Europe.

Agency mission is to promote judicial cooperation in criminal cases.

Eurojust national members perform the functions by acting individually or in college.

Eurojust may request the competent national authorities to conduct investigation or prosecution of specific crimes, to coordinate the competent authorities, to form a joint investigation team or to provide any necessary information to carry out its functions. Eurojust can organize and facilitate coordination meetings between police and judicial authorities of different countries, aiming to resolve legal and

practical issues.

Eurojust as an EU agency, is in compliance with the subsidiarity principle, its applications can be refused by Member States. In this case, Member States need to immediately inform the Agency of their decision or the reasons of refusal to grant a request. Outline of the reasons may still be eluded by Member States if they plead national security principle.

New Eurojust Decision provides for the establishment of an office at the agency responsible for permanent coordination, intend to help agency to fulfill its tasks in situations of emergency. The office receives all applications at any time which is submitted and can be contacted 24 hours of 24 and 7 days of 7. Office consists of one representative of each Member State, which may be either the national member or his deputy or an assistant entitled to replace the national member and responds promptly to all requests. The decision also provides for the creation until June 4 2011 of a national system of coordination to facilitate the Member State performance of the functions of Eurojust.

Joint investigation teams. Liaison magistrates.

The concept of joint investigation teams (JIT) originated in 2000 European Convention on judicial assistance in legal matters. Any Member State confronted with trans-border crimes may request the creation of a team. This is formed by police, prosecutors, judges and other relevant persons. The team is led by a person belonging to the country where the team was established. Although team members come from different jurisdictions, they meet their duties in accordance with the national law of the territory where the investigation develops. Researches can be carried out by police officers from another Member State, an agreement is made with the state police officer belong to. Some Member States have appointed liaison magistrates to work in other EU Member States on a bilateral basis, both in criminal and civil assistance.

Eurojust's activities in the period 2004 - 2008 reflected in the activity reports

Relations between Europol and Eurojust were very close in **2004**. Understanding the long negotiations Europol / Eurojust have been finalized and approved by a deal in the spring of 2004, signing by President of the Eurojust College and Director of Europol on 9 June.

First JIT was formed in November 2004, when Holland and Britain were united to combat a drug trafficking network. Report 2004 identifies a number of issues related to the creation of these teams due to mostly European legislation lack of implementation at national level. The report also shows that in relations with OLAF, 2004 was quite disappointin . While there has been some progress, much remains to develop closer relations with OLAF in the fight against fraud in the Community budget. In 2004, Eurojust had reviewed 381 cases; these figures of 27% represents an increase of the previous year. This happened mostly due to EU enlargement by 10 new states, but reflects also improvement in the cooperation and trust with national authorities and capability of Eurojust to ensure coordination in trans-border investigation.

Eurojust College, meeting to discuss human trafficking and illegal immigration, took place in September 2004. At the same meeting also discussed the role of Eurojust in the newly created **CARIN network**. This represents an initiative to bring together national agencies of Member States involved in criminal asset recovery.

April 28, **2005**, Eurojust concluded his first cooperation agreement with a non-member state, Norway, and on December 2, 2005, two other agreements were signed with Iceland and Romania, which at that time was a candidate to EU membership. Negotiations have begun with the U.S. and Switzerland, and informal discussions were held with representatives of the Russian Federation and Ukraine. Throughout the year, Eurojust and Europol have worked together to draft common JIT. The first step was to develop a guide to the laws of the Member States to implement such teams. Other areas of cooperation are concerned, for example, the fight against terrorism, drug trafficking, trafficking in human beings, fraud and money counterfeiting.

Unlike last year, relations with OLAF and Eurojust have improved substantially. Eurojust have presented summaries of 11 investigations conducted by OLAF. However, in seven of these 11 cases, national members have said they were brought too late to make a substantial contribution. Another important aspect highlighted in the 2005 report is the request of the College of Eurojust to be given more powers to

coordinate criminal investigations, such as the ability to hand out or execute controlled deliveries, to act as a center of EU in relation with the foreigners, and not just to issue recommendations on assistance, but to decide some measure taken in investigation, like: interception and covert operations in emergency situations.

In **2006**, the national members have registered 771 cases, representing an increase of 31% compared to 2005. This increase shows that Member States become more aware of activities and services offered by Eurojust and national authorities refer the matter, taking into account the added value that results from its involvement. Eurojust registered 49 different types of criminal activities in 2006. Generally, in cases submitted, the incidence of all types of crimes has increased, some significantly, such as terrorism and money laundering, while drug trafficking and fraud cases still represent the largest percentage of the types of crimes brought to.

2007 is a milestone for Eurojust - a history of overruns due to 1,000 cases treated in one year. JHA Council Decision of 6 / 7 December 2007 analysis and conclusions of the Lisbon seminar, which tighten some issues highlighted in the meeting. Specifically, the Council supports further development in cooperation between Eurojust and other European Judicial institutions (European Judicial Network, Europol, OLAF) to increase efficiency in the fight against organized crime. The Council also called for increased powers given to Member States the national members of the College and encourage competent authorities to work with Eurojust in different cases.

In **2008**, an important date was 16 December when the Council of Ministers adopted a new Decision on strengthening Eurojust by amending Decision of 28 February 2002. The new decision aims to provide Eurojust more effectively. Its main objectives are: to create a common basis in terms of powers granted to national members, establishing a coordination mechanism for emergency situations, improve exchange of information through Eurojust, strengthening cooperation between national members and contact points of the European Judicial Network and strengthening cooperation with third countries and other EU bodies and networks.

CEPOL

CEPOL brings together police officers in Europe in order to encourage cooperation in the fight against trans-border organized crime, preservation of public security and order in the EU. Created by a decision of the EU JHA Council 681/2005 dated 20 September 2005, CEPOL organizes 80-100 courses, seminars or conferences per year. Implementation takes place in the activities of national police colleges in the Member States, covering a wide range of topics. CEPOL Secretariat is based in Bramshill, United Kingdom about 70 km from London. Agency plans to get recognition from other agencies and police as a source for development of police officers education.

CEPOL short name comes from the French College, College of Police European.

The decision establishing CEPOL was adopted in September 2005 and entered into force only after 1 January 2006. Agency tried to impose itself as the central preparatory institution for police officers in the Member States. However, once the convening of the first Council rules were adopted, the functioning of various committees and course program for 2006. It identifies several issues on CEPOL, namely:

- Educational sessions of police officers based on common standards;
- Bringing together police officers and experts in various particular areas;
- Developing a common curriculum on European police cooperation to be sent to national police colleges at preparatory departments;
- Command to spread scientific researches results between police agencies in the Member States;
- A forum which offer language courses because of language issues represent some of the most significant barriers to access and efficient cooperation in Europe;
- Supporting the exchange of police officers from Member States.

2006, the first year that the official CEPOL exist as an agency of the EU have dealt with the establishment and operation procedure rules of the institution in accordance with the decision of the JHA. Relations

with Europol were extremely close, the European police agency representatives participated in various seminars and courses organized by CEPOL.

In **2007**, CEPOL has organized 85 courses and seminars, with 23 of activities more than in the previous year. Over 1,900 police officers and more than 700 experts participated in these. CEPOL Two major projects conducted in 2007: **Exchange program CEPOL / AGIS** (which will run from December 2006-December 2008) and **Euromed Police II project** (2007-2010). Program for 2008 identifies "**Witness Protection**" (seminar), "**International Trafficking in Arms**" (seminar) and other two conferences on the evolution of crime in Europe. For 2008, the program identifies the implementation and development of existing curriculum and the adoption of three new: civilian crisis management, drug trafficking and diversity management.

Cap. VII. Area of Freedom, Security and Justice and the European Parliament after the adoption of Lisbon Treaty

"The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and different legal systems and traditions of the Member States." This phrase sums up largely importance of EU member states give to this area, security and free movement of citizens representing the priority of European institutions and the rationale for numerous other agencies. Article 61 D of the Treaty provides for a standing committee of the European Council to ensure the promotion and consolidation of EU operational cooperation on internal security. It will promote coordination of the action of the Member States.

Judicial cooperation in civil matters.

Article 65 of the Lisbon Treaty states: "The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judicial and extrajudicial decisions. This cooperation may include measures for the approximation of laws, regulations and administrative provisions of Member States. "The Parliament and the Council shall adopt measures to:

- (a) mutual recognition between Member States of judicial and extrajudicial decisions and their execution;
- (b) cross-border communication and notification of judicial and extrajudicial documents;
- (c) compatibility in rules applicable in Member States concerning conflict of laws and of jurisdiction;
- (d) cooperation in the taking of evidence;
- (e) effective access to justice;
- (f) eliminating obstacles to the good functioning of civil proceedings, if necessary by promoting the compatibility of rules on civil procedure applicable in the Member States;
- (g) development of alternative dispute resolution;
- (h) support the training of magistrates and judicial staff.

Judicial cooperation in criminal matters.

According to Article 69a such cooperation is based on "mutual recognition of judgments and judicial decisions and shall include the approximation of laws, regulations and administrative provisions of Member States." As with all areas, Parliament and the European Council measures:

- (a) establish rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;
- (b) prevent and settle conflicts of jurisdiction between Member States;
- (c) support the training of magistrates and judicial staff;
- (d) facilitate cooperation between judicial or equivalent authorities of the Member States in the prosecution and enforcement of decisions. "

Eurojust, the EU agency created to improve coordination of actions between judicial institutions and the Member States, is put under joint control of the Council and European Parliament, these two institutions

leading to the structure, functioning and activities of the Agency. Article 69 D of the Treaty of Lisbon states agency powers that be determined by joint decision of the Parliament and Council:

(a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions conducted by competent national authorities, particularly those relating to offenses against the Union's financial interests;

(b) coordination of investigations and prosecutions referred to in (a);

(c) strengthening judicial cooperation, including resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

A new judicial institution, to combat crimes affecting the financial interests of the Union, namely the prosecutor office, is envisaged. According to Article 69 E of the Treaty, its creation is determined by the European Council unanimously after obtaining the consent of the institution is competent "to investigate, pursue and prosecute, where appropriate in liaison with Europol, the authors and coauthors crimes affecting the financial interests of the EU." Article states that the prosecutor exercised in the courts of member states public action in connection with these crimes. Regulations on the status, conditions for the exercise of its functions, activities and procedures for enforcement of rules governing the admissibility of evidence and judicial review of the pleadings, are decided by the European Council, after prior approval of Parliament.

Article 69 F of the Treaty of Lisbon states that the Union establish police cooperation "involving all competent authorities in Member States, including police, customs and other specialized law enforcement in the prevention, detection and investigation of criminal offenses". Parliament and the Council, through their legislative role, jointly establish measures concerning:

(a) the collection, storage, processing and analyzing information in the field, and exchange of information;

(b) support the training of staff, and cooperation on the exchange of personnel, equipment and forensic research;

(c) common investigative techniques in the detection of serious forms of organized crime.

Europol, in accordance with Article 69 G of the Treaty, has the mission to support and strengthen action by the police and other law enforcement services in the Member States and their cooperation in preventing and combating serious crime affecting two or more Member States terrorism and forms of crime which affect a common interest covered by a Union policy. "Article 69 G points out that" any operational action by Europol must be carried out in cooperation with the State or States whose territory is concerned with their consent. Coercive measures shall be the exclusive responsibility of national authorities. "In other words, Europol additional powers do not exist, they just acting in cooperation with local authorities, so Member States' sovereignty is respected.

Article 69 H of the Lisbon Treaty shows that the limits and conditions under which the competent authorities of the Member States may intervene in another Member State in liaison and agreement with the authorities of that State, are set by the European Council, after consulting Parliament.

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