

SPECIFIC ISSUES FACED BY THE EUROPEAN UNION. THE FIGHT AGAINST SERIOUS AND ORGANIZED CRIME

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Abstract: *In the pandemic context generated by the epidemiological situation we face, crime has increased worldwide, criminals adapting to the environmental changes in which they operate. Thus, online criminal activities have become more widespread, especially in the area of fraud, and concrete and structured action is needed at EU level to combat all forms of organized crime. Modern technology is an essential tool in terms of serious and organized crime, facilitating systematic cooperation between criminals, in achieving the common goal, respectively the achievement of profit. Thus, it becomes much easier to access illegal tools and goods, the economic crisis generated by the pandemic giving a safe lever in this regard. The European Union is working to establish the tools and measures to be developed in the period 2020-2025, to ensure security in the physical and digital environment.*

Key words: *organized crime, serious crime, cooperation, COVID19 pandemic*

1. Introduction

At present, organised crime is a phenomenon spreading at all levels of social and economic life, the criminal networks constantly adjusting their modus operandi and exploring new technologies, all the more so as we are dealing with a perfect adjustment of their illegal activities to the crisis we are going through. The immediate impact of the pandemic crisis was especially felt regarding forgery and distribution of standard goods, cybercrime, organised crime over the property and the fraud-related offences. The European Union is aware of the major threats represented by the serious crimes and organised crime, and establishes actual actions to fight them. The more weaknesses there are, the more risks to exploit them. The security at the European Union level is an essential policy, but it cannot be ensured only from the inside, it also need an external approach on security, beyond its borders, though a tight, constant and systematized cooperation (EU Strategy on the security of the Union, COM/2020/605 final).

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The COVID-19 pandemic represented a certification of the fact that organized crime groups have the ability to adjust and to make the most of any critical situation. In such a context, they saw the "potential" offered by the economic crisis generated by the pandemic and made the most of it by amplifying the crime-related activities online, turning to frauds, including ones with counterfeit medical products.

The survival solutions carried out during the pandemic by the economic actors adjusting to challenges, by using digital technology, created new hideaways for crime-related networks which used the passage to remote working from home. Therefore, the digital technologies acquired more and more usefulness for all economic and social actors, following the development of internet and the increase of artificial intelligence, clearly imposing the insurance of cyber security of technologies, thus becoming a strategic priority of the European Union (Secure 5G deployment in the EU - Implementing the EU toolbox, COM/2020/50 final). The great importance of the fifth generation (5G) of telecommunication networks is the real contribution to the development of the European society and economy, in all areas such as transport, energy, manufacturing, health, agriculture and media. Also, the cybersecurity of 5G networks is able to ensure a trustful digital transformation for the benefit of all EU citizens.

The informatics systems and the digital infrastructures hold a key position in ensuring essential services, and there is a need to approach the specific risks at the level of each critical infrastructure, any threat to them jeopardizing the vital functions of the society, regarding health, safety, security, economic and social welfare, because it could even lead to their destruction (Directive 2008/114/CE). Great part of the economic and social activity was transferred online, which made the risk of cyber-attacks increase exponentially, which required enhanced protection at the level of all Member States.

2. Serious and Organised Crime. Accurate Determination of Criminal Threats as Action Priorities

The threats represented by the serious and organised crime make the Council establish the action priorities for 2022-2025 (EU priorities for fighting serious and organised crime, EMPACT 2022-2025):

High-risk criminal networks - identify and neutralize crime-related networks with high risk which carry out their activity within the EU, focusing on those crime-related networks involved in corruption, acts of violence, firearms and money laundering, by intermediary of some underground parallel financial systems.

Cyber-attacks - neutralize cyber-attacks, by identifying the offenders accomplishing such attacks, especially those offering online specialised crime-related services.

Trafficking in human beings - neutralize crime-related networks involved in human trafficking, mainly focusing on those exploiting minors, those using violence or threatening to use violence against the victims and their families, or those recruiting victims online and advertising them online.

Child sexual exploitation - fight online and offline abuse against children, including production and broadcasting materials presenting abuse on children, and online sexual exploitation of children.

Migrant smuggling - fight crime-related networks involved in illegal smuggling of migrants, especially those offering facilitation services throughout the main migration routes.

Drugs trafficking - identify crime-related networks involved in drug trafficking, including trafficking and distribution of cannabis, cocaine, heroin, synthetic drugs and new psychoactive substances.

Fraud, economic and financial crimes - fight fraud, economic and financial offences, and identify the offenders, who accomplish such offences, including those related to online fraud systems, excise product frauds, intercommunity fraud with "ghost" companies, intellectual property related offences, counterfeiting of goods and forgery of currency, funds coming from offences and money laundering.

Organised property crime - neutralize crime-related networks involved in organised crime against assets, especially burglaries, thefts and organised robberies, crimes related to vehicles and illegal commerce with cultural goods.

Environmental Crime - fight crime-related networks involved in all types of offences against the environment, especially those having the ability to infiltrate into legal commercial structures or to set up their own companies in order to facilitate their offences.

Firearms trafficking - fight trafficking of firearms – identify the offenders involved in the trafficking, distribution and illegal use of firearms.

Document fraud - is considered a strategic goal, being a key enabler for many crimes - fight forgery of documents within the EU by targeting the crime-related networks and small entrepreneur-type offenders, involved in the production of forged and fraudulent documents and placing them at the disposal of other offenders.

3. Actual Actions at the Level of the European Union in the Fight against the Serious and Organised Crime

The Covid 19 pandemic has had an overwhelming impact in the area of serious and organised crime, an important part in this regard being played by Europol by devising a detailed analysis of the main crime-related threats at the level of the European Union. Once in four years, Europol draws up the Serious and Organised Crime Threat Assessment facing the European Union (SOCTA), based on the important contributions of the Member States, identifying the main crime-related threats within the EU. This report, drawn up once in four years, is meant to study the state, dynamics and evolution of such types of crimes throughout the Union and it has the role to describe the environmental factors contributing to serious and organised crime, and to identify the key criminal groups and the persons involved in such crime-related activities (European Union serious and organised crime threat assessment, Europol, 2021).

The inflammatory evolution of crime-related activities, by reforming and adjusting them within the pandemic context, has created new opportunities for some criminal

networks. SOCTA represents an analysis of both criminal networks and criminal individuals, carrying out their activity within the Union, identifying key priorities in approaching the main threats in the area of serious and organised crime.

One of the key instruments in the fight against organised crime structures is the European Multidisciplinary Platform Against Criminal Threats (EMPACT), which, even since 2010, has allowed Member States to identify the priority criminal threats of the EU, drawing attention to the need of a collective action in approaching such criminal threats, which should involve, through a structured cooperation, the judicial authorities, institutions, agencies and bodies at the European Union level. Although all types of threats assessed by SOCTA have an impact on the European Union security, some should be approached mainly to be counteracted by urgent actions. A great involvement of the criminal groups activating in Europe targets drug trafficking, organised crime against assets, fraud (including customs fraud, excise and VAT fraud), illegal migrant smuggling and human trafficking.

A great problem is represented by the fact that organised crime groups seek to expand toward poly-criminality, the profits obtained from the criminal activity carried out serving as means of financing of other criminal activities. One of the main sources of income for organised crime groups is represented by drug trafficking, in this regard the European Union drawing up the Drugs Strategy 2021-2025 (Council Conclusions, 14178/20).

Also, violence is more and more used, by utilizing firearms and explosives in public areas, making such offenders more dangerous. Many times, the victims are innocent people who fall unintentionally, without any involvement. In order to reduce the availability of firearms into the hands of offenders, the Commission has started to enforce the EU Action Plan on firearms trafficking for 2020-2025 (COM/2020/608 final), by adopting the Directive on the control of acquisition and possession of firearms (Directive 2021/555/CE), establishing the common minimum standards regarding the acquisition, possession and marketing of civilian firearms (e.g., the firearms used for sports shooting and hunting) within the EU. Thus, it is intended to balance the objective of the internal market (cross border circulation of firearms) with the objective of the security policy (the high level of security and protection against the offences and illegal trafficking) within the EU.

The management of migration as an EU objective is seriously affected, as illegal migrant smuggling represents the main activity of organised crime groups. In this regard, the Commission has in view a new action plan against illegal migrant smuggling, in order to fight the criminal networks involved in this area.

The phenomenon of human trafficking has a great percentage in organised crime, as the criminal groups from this category target the recruitment of victims, especially online, for sexual exploitation, forced labour, forced criminality or begging. In this regard, they forge identity documents and work permits, the informatics environment being a key element to facilitate criminal activity in its whole. To capture the specificity

of such offences, the Commission draws up the Strategy on combatting trafficking in human beings for 2021-2025 (COM/2021/ 171 final).

The dynamics of cybercrimes was very much felt during the COVID 19 pandemic, which created an environment favourable to increasing this side of the criminal activity, by creating weaknesses exploited by offenders.

The cyber-attacks and the creation and spreading of malware programmes, piracy with the purpose to steal sensitive personal or industrial data, or attacks targeting to block the access, have registered an overwhelming increase as a result of the economic crisis (Internet organised crime threat assessment, Europol, 2020, pp. 10-20). The population had to make savings without cash and from here on, there were the fraud and counterfeit opportunities regarding means of cashless payment, such as credit cards and online payment instruments, aspects representing a serious threat to the EU security (Beyond the pandemic, How Covid 19 will shape the serious and organized crime landscape in the EU, Europol, 2020, pp. 3-5).

A rather important component within organised crime is represented by frauds, including customs fraud, excise product fraud and TVA fraud, a much targeted area by the offenders nowadays. A significant percentage is represented by product counterfeiting, being 6.8% from EU imports, at the same time being an important source of income for organised crime groups (Trends in Trade in Counterfeit and Pirated Goods, Illicit Trade, 2019, pp. 53-54).

During the COVID 19 pandemic, they registered an alarming increase of the phenomenon of counterfeiting with medical and sanitary products, the organised crime groups showing interest and being involved in the production and provision of protection equipment, testing kits and counterfeit pharmaceutical products.

A key threat in the fight against serious and organised crime is represented by corruption, as 60% from criminal groups are involved in corruption, and the existing instruments at the European Union level cannot totally cover all the offences mediated by them. Thus, the rules established in the charge of the Member States concern the compulsoriness of prosecution of active corruption, and also of passive corruption of public servants, engaging the criminal liability of public servants and also of the contractors who show a corruptive attitude towards them.

Still, influence peddling, abuse of power, illegal enrichment, embezzlement or other misappropriation of goods by a public servant remain uncovered. A relevant instrument at the level of the European Union is the Directive 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of the Union law, granting protection to reporting persons of integrity and imposing the creation of some safe channels to report the corruption practices. In this context, we need to improve the exchange of expertise and of good practices, of data and information between the Member States and the civil society.

The concrete understanding of risks and threats represented by corruption acts, is absolutely necessary in order to ensure efficiency in assisting the criminal investigations through data exchange.

4. The European Union Strategy on Fighting Organised Crime

Fighting the organised crime structures needs intensive efforts regarding the cooperation with countries outside the EU. It is the need of improvement at the level of exchange of information and of investigative actions within the states where organised crime has a high degree of risk, by relocating some bilateral liaison officers in those areas considered as critical. In this regard, the Commission considers negotiation of international agreements in order to facilitate personal data exchanges with Europol and to allow judicial cooperation with Eurojust.

As there are disparities regarding the level of cooperation on behalf of the Member States, thus they create impediments at operational level concerning efficient cross-border cooperation. Therefore, the Commission started an initiative to draft a Code of police cooperation for fighting serious cross-border organized crime, in order to harmonize and to include the different instruments of the EU and the multilateral cooperation agreements into one legislative instrument.

Fighting the phenomenon of organised crime and of serious crimes becomes more and more difficult as those criminal organisations of this type are structured around a central group or in a hierarchical way (SOCTA, Europol, 2021). Within such criminal networks, we find interconnected groups and persons systematically cooperating by means of some "common enterprises", and their ability to interconnect undermines the efforts of enforcement of the law, because each component of the criminal chain can be easily replaced in case of intervention of authorities (EU Strategy to fight organised crime 2021-2025, COM/2021/170 final).

Regarding the annihilation of criminal infrastructures, they target prevalently the criminal groups with high risk for the security of Europe, registering high efficiency as a result of establishing some national structures or specialised bodies against mafia-like organisations at the level of Member States. In this regard, the Commission wishes to implement the exchange of good practices for the other states to create their own patterns, adjusted to their national specificity.

At European level, a relevant operational contribution against mafia-like organised crime groups is represented by the cooperation carried out by means of the @ON Network, facilitating the relocation of specialised investigators on site, in all Member States, in order to bring their contribution to the investigation of cross-border organised crime groups. Also, at the same time, we have to emphasize the activity carried out by Europol together with the Member States regarding the identification and data collection, an investigation concerning the persons suspected to be members of some criminal organisations and who represent highly important targets. They wish to enhance such actions and they impose the drafting of some common criteria for all Member States to be able to identify the highly important targets. Surely, facilitating the operational cooperation and the exchange of information in real time would make possible the development of several common and systematic investigations regarding the persons playing an important part in a criminal network. In this regard, the current @ON Network should be consolidated by including all Member States and by developing good practices, as well as by a thorough connection with EMPACT in its activity against criminal networks.

Also Europol must take into consideration the agility of the criminal networks in adapting and capitalising on changes in the environment where they operate. In this respect, the current regulation allows more direct cooperation with third countries and this initiative should be encouraged. In the latest findings from SOCTA it is stated that more than 50% of the suspected criminals acting in Europe are non EU nationals, most of them coming from EU neighbouring countries.

5. Conclusions

As a result of the assessment of the major threats represented by the serious and organised crime, the European Union shows concern regarding the compliance with the citizens' fundamental rights. The main priorities established as guidelines are imposed especially as a result of the economic crisis generated by the pandemic, thus increasing the risk of occurrence of some activities of organised crime and of infiltration of offenders in the society and in the economy. Their ability is even higher as during the COVID 19 pandemic it created new levers of action, adjusting their criminal activity which increased especially online by committing frauds, including frauds with counterfeit medical products. The criminal groups tend to manifest their activities in several jurisdictions, thus wishing to circumvent by making the best of the disparities existing at the level of national legislations applicable. Within several jurisdictions, there are difficulties regarding the investigation of offenders, thus imposing common rules by which the Member States be able to mutually transfer the criminal procedures.

The Union requires a multinational and multi-institutional approach within the Member States and a good cooperation with the judicial authorities, institutions, agencies and bodies at the Union level. In the fight against crime, we have to make sustainable and constant efforts at the level of each Member State, the efforts made by the authorities with state border duties being extremely relevant.

As the priority criminal threats of the Union are identified, they impose a collective action and good cross-border cooperation against the organised crime structures.

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