

THE IMPACT OF BORDERLESS AREA ON THE POLICE INTERNATIONAL COOPERATION

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Abstract. *In 2007 after signing the Treaty of Lisbon cooperation among police and other competent law enforcement offices became the official European policy, although the denial of inner borders started already in 1985. Since that time it is radically changed the legal basis of police cooperation.*

In spite of the fact that the denial of inner borders has started police cooperation, now due to terroristic acts taking place directly in European Union discussions on resumption of borders happen more often.

The aim of this article is to start the discussion why interstate police cooperation is still ineffective. The task of this article is to pay the attention to those normative and legal acts in different levels makes cross-border cooperation difficult, not simple and easy. A legal act comes into force but there is no a competent official who is ready to apply it. Thus the fulfilment of all formal demands takes place while the practical realisation lags far behind. While the European Union develops secure, free and legal environment widens several criminal authority powers, it still does not work on gaining the expected result. There is a small number of articles and publications on law offices cooperation tools as it is a very specific field.

The author comes to the conclusion that without examining new tools there is no possibility to apply them correctly and effectively. Police departments' different understanding and law enforcement offices' traditional work methods embarrass the application of new and effective cooperation tools.

Key words: *police, cooperation, cross-border law enforcement cooperation*

Introduction

It is initiated and partially started several legislative and interior initiatives in the European Union (hereafter the EU) in short time period. Since the signing of the Treaty of Lisbon the EU intensively strengthens the police cross-border cooperation. Ambitious decisions are made integrating home affairs into the EU policy. The problem comes from fast-growing volume of norms that makes cooperation much complicated. An ordinary officer always pays attention to the national law which systematically lacks novelties while the legislation has priority in executing EU demands not ensuring the intended new norms result. Thereby a new cooperation tool accepted in the EU level and theoretically included into national rights has not practical implementation.

Already 11 years Latvia is a full-rights EU member, since 2007 has joined the Schengen border-free zone. All this expanding cooperation became a new challenge for police services.

If the current law enforcement cross-border cooperation was largely based on bilateral and multilateral treaties and conventions which included issues in extraditions or criminal justice assistance than now the biggest part of novelties are implemented by the European Union decisions. The traditional ways of cooperation have been changed by historical and geopolitical processes. Such operations as cross-border hot pursuit, surveillance, joint patrolling, controlled deliveries and special tests showed up.

Modernisation of the cross-border cooperation

The modernisation and strengthening of cross-border cooperation is maintained by development of regulatory framework. This is a time-consuming and very complicated process as there all partners' interests might be coordinated. During the last several years a number of regulatory frameworks on police work have appeared. For example, there exist 386 documents that include a phrase "fight against crime", 354 documents under the key words "the EU law enforcement institutions cooperation in crime matters", 340 documents on "freedom, security and justice" aspects, 425 on "information transferring" [1] in the Eur-lex data basis Latvian version. There is nationaldata base in Latvia likumi.lv where are 42000 documents under the key word "police". It is interesting that "the police law" [10] has only one regulation the content of which applies to cross-border cooperation. Unfortunately, that number of documents found does not mean a qualitative result although it proves its topicality. Police cooperation issues are specific, and there are small amount of scientists and teaching staff who are interested in these documents deep research analysing its quality and utility.

To unify opinions of Member States is the most complicated part in regulatory framework development process. For example, the discussion about necessity to register passengers data [9] started already after September 11, 2001 terroristic acts in the USA. Consensus on this issue still not gained, however, the Treaty of Lisbon says that "The Union shall offer its citizens an area of freedom, security and justice without internal frontiers in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime" [8]. Just only after this year tragic events in Paris the EU member states came back to the issue of registration of all passengers' data as soon as possible. It

follows that law enforcement does not have enough information on suspicious persons' mobility. In any case neither legal resource, not human resources are needed for proactive moves.

A completely different is a situation providing significant crime data and public order. The best example here is the Prüm Convention) [7] initially signed among several states. Firstly the convention conditions were appraised among some member countries and only after successful application other countries expressed a will to join the Prüm Convention. The legal aspect of joining is determined by the Treaty on European Union (article 280.c) [2]. In the result the initiative of some countries developed by data exchange practical users became the binding treaty to all EU member states determined by its own decisions.

Such data as fingerprints, DNA profiles and vehicle registration documents sharing and comparison has improved cooperation and expanded criminals' search resources. In general, it is necessary data for police to help quickly identify persons, traces or find out necessary information.

Legislative regulations that have been accepted during closer cooperation process are binding only for participating states. This leads to different cooperation methods among EU member states and criminals finding out these weaknesses use it in they own interests. Interstate cooperation tools must be implemented in all member states simultaneously thus improving situation.

In Latvia EU regulations in legislative and home affairs field are adopted by, for example, supplementing or modifying the Criminal Law or its articles. For example, the EU Council's decision Nr.2002/584/TI [3] dated June 13, 2002 on EAW surrender procedures between member states and decision 2002/465/TI [4] dated June 13, 2002 on joint investigation teams introduced significant amendments to the Criminal Law Part C. If comparing EAW arrest application and common investigation teams' development frequency it is obvious that understanding is different. One tool is used and applied quite often and successfully, another is still denied.

Another police interstate cooperation issue is that Member States are stipulated by bilateral agreements thus forming different cooperation opportunities.

Powers and functions of responsible institutions are determined by the Cabinet of Minister in our country, sometimes by the law. For example, after the EU Council's decision 2006/960/TI [5] dated December 18, 2006 on the European Union Member States' law enforcement information and intelligence exchange simplification regulation, often mentioned as "the Swedish initiative", Latvia on March 12, 2009 passed the Prevention, detection and investigation information exchange law.

In turn, the European Parliament and Council Directive EU [6] dated October 25, 2011 stimulating cross-border information exchange on road safety related traffic offenses was introduced in Latvia by the regulation of the Cabinet of Ministers No 15 about cross-border information exchange on road safety related traffic offenses. It means that different legal acts follow every initiative.

Along with developing interior policy and regulations the EU establishes agencies and institutions (Europol, Eurojust, Frontex, etc.) where the main task is to give support to responsible institutions of member states in fight against serious and organised crime. EU law enforcement agencies do not have independent investigative capabilities. These institutions develop and work independently and no one determines its inter-institutional responsibilities. The inter-institutional cooperation improves only over time through cooperation agreements.

By accepting such borderless cooperation ways when a country's responsible agencies have rights to work on the territory of another country, states share their own sovereignty. That is the main reason why such a long time period the legal tools actually were not used. Currently, the EU member states police services have an opportunity to give borderless support participating in common operations and mass events, patrolling, examining documents and ID's, identifying persons and controlling traffic. A member state after demand of other member state may make a decision to send its staff to support. The Schengen zone countries accepted the cross-border pursuit, cross-border surveillance, etc. operations. Thus, a member state police has a legal basis to be situated in another country, and if member states have agreed on it, police officers have the right to use special means, including weapons. Such actions are regulated and are prior at police trainings, but the author considers that a number of such operations in practice is still small. There are not enough knowledge, correct national legal acts, initiative and corresponding practice.

In general, the police interstate cooperation is complicated as it includes actions to maintain public order, collecting, processing, analysing and storing information, data exchanging for joint investigation, cross-border operations, staff training, revealing crimes, evaluating investigation methods, etc. Before developing new tools the existed might be improved to increase effectiveness. Cooperation obstacles should be diluted, but trust is to be strengthened by mutual communication. The cooperation among the EU agencies might be improved thus increasing its investment by practical tasks execution. New technological tasks might be solved to make better routine work.

Conclusions and recommendations

The abolition of the border control is the main reason to strengthen and modernise law enforcement institutions' cooperation.

The introduction of the EU acts is made by member states responsible institutions according to the determined order within a state. Thus police, border control, customs and other institutions do the main task to reach the aim – fight against crime. As basis of acting is not only national laws but also the EU regulations it is important that all related institutions interpret and use them professionally alike. It means that trainings must be common.

Police has a big public resonance and therefore the law must be readable and understandable in order to turn off the dual treatment of. Increase of legal regulation volume and cross-border cooperation in Latvia has not affected article No 8 of the Police law that mentions police interstate cooperation. Exactly this legal act is the basis of police work in Latvia and it would be very useful to include novelties on cross-border cooperation in it. Police officers should not be obliged to acquire dozens of different legal force regulatory acts.

It must be admitted that crime tendencies affect all counties, however each country has own features. As well law enforcement institutions are not similar neither by functions not by tasks in different countries. These features must be taken into account while organising borderless operations. It is not excluded that one legal instrument is well-practiced in a particular region, but at another does not fit at all. Thus a discussion between legislator and legal instrument adopter should take place before a legal act coming into the force. Consequently after a certain time period it is necessary to evaluate the use of legal tool, find out its weaknesses and mistakes in order to cancel them in the future.

References

1. Access to European Union Law :<http://eur-lex.europa.eu/homepage.html?locale=lv>
2. Consolidated version of the Treaty on the Functioning of the European Union. OJ C 326.
3. Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States. OJ L 190 (2002).
4. Council Framework decision of 13 June 2002 on joint investigation tekams. JO L 162 (2002).
5. Council Framework decision of 18 December 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union. OJ 386 (2006).

6. Council directive 2011/82/EU of 25 October 2011 facilitating the cross-border exchange of information on road safety related traffic offences. OJ 288 (2011).
7. Gianni B. (2007) The Treaty of Prum:A Replay of Schengen? from:www.eu-consent.net/library/deliverables/D38c.pdf.
8. Treaty of Lisbon. OJ C 306 (2007).
9. The European Parliament and Council Directive on passenger name record data for terrorist offenses and serious crime prevention, detection, investigation and prosecution of them. COM 2011/0023 (2011).
10. The Police Law. "Ziņotājs" No 37 (1992).