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ИЗВОРНИ НАЧУНИ ЧЛАНАК

CRIMINAL AND POLICE COOPERATION BODIES IN THE EUROPEAN UNION, THE EUROPEAN PUBLIC PROSECUTOR AND CORPUS IURIS

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Abstract: The European Union has long been making some efforts to develop the criminal law of the European Union, the main goal of which would be to protect the financial interests of the Union. For that purpose, certain new criminal law institutes typical for this branch of law were introduced. However, in order to achieve the actual implementation and application of mechanisms to protect the interests of the Union, there was a need to establish police and criminal cooperation bodies within the Union, which will be independent of the criminal laws of Member States, but at the same time achieve a high degree of cooperation between themselves and with the national authorities of the Member States, all for the purpose of faster, more efficient and simpler cooperation and protection of the values of the Union. In that context are also introduced the European Public Prosecutor, and the academic study Corpus Iuris, which many consider to be the forerunner of the criminal code of the European Union. The paper presents in more detail the bodies for judicial cooperation between Member States - Eurojust, the European Judicial Network, Liaison Magistrates, Europol, the European Anti-Fraud Office - OLAF, the European Public Prosecutor, and the Corpus Iuris. In addition, the tendencies in the protection of human rights are also the subject of attention.

Key words: criminal justice cooperation, police cooperation, Eurojust, European Judicial Network, Liaison Judges, Europol, OLAF, European Public Prosecutor, Corpus Iuris.

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1. EUROJUST

At the Tempere European Council meeting on 15 and 16 October 1999, the process of legal regulation of criminal offenses committed by transnational criminal organizations began with the decision to establish a body in charge of judicial cooperation between the states[3]. This body is of a permanent character and is called Eurojust[4]. However, it was not established on this date, but was only made a decision on establishment of this institution in the future.

Eurojust had its predecessor, an institution called Pro-Eurojust. Eurojust was established as an agency only on 28 February 2002 by a decision of the Council of Europe[5] and was determined to have its seat in The Hague, the Netherlands. A few months later the agency started operating, on June 142002, when the Cooncil adopted the rules of procedure.

The decision establishing Eurojust underwent several changes. It was first amended by an amendment of 18 June 2003[6] and then by a Decision of 16 December 2009[7]. The aim of these amendments is to ensure the best possible cooperation and to facilitate the suppression of serious crimes committed by criminal organizations.

The objectives of Eurojust have been set by the Council of Europe in its decisions and are divided into three groups. Primary goal was to regulate criminal offenses in which two or more states have interest. What is important is that in these situations, Eurojust's role is to be the coordinator between the authorities of those countries, and to harmonize the interests and requirements of those countries as much as possible in accordance with its rules.

With regard to the jurisdiction of Eurojust, the 2002 Decision determined the general jurisdiction for: 1) criminal offenses and misdemeanors for which Europol[8] always has jurisdiction; 2) all other misdemeanors related to the aforementioned offenses.

The modus operandi of Eurojust is set out in Article 4 of the 2002 Decision. In accordance with the rules, Eurojust acts through one or more national members or as a College. Eurojust shall act as a College in situations: when one or more national members interested in the case file a request; in case of situations which may affect both the Union and the Member States in addition

3 See Panos, Koutrakos, „Institutional Balance and Sincere Cooperation in Treaty-Making under EU Law", *International & Comparative Law Quarterly*, 68 (1) (2019): 1-33.

4 Eurojust is an abbreviatioin for *European Union's Judicial Cooperation Unit*.

5 Decision of the Council 2002/187/JHA of 28 February 2002.

6 Decision of the Council of 18 June 2003, which amended the Decision 2002/187/JHA.

7 Decision of the Council 2009/426/JHA of 16 December 2008 on strengthening of Eurojust which amended the Decision 2002/187/JHA.

8 Europol i san abbreviation for *European Police Office*.

to the State directly concerned; where the situation may affect the achievement of the Union's objectives; for situations provided for by other provisions of this Decision.

Eurojust provides its assistance to Europol in investigation and prosecution of particularly serious criminal offenses. The College may approve the provision of logistics that includes translation assistance, interpretation, and the organization of coordination meetings.

The amendment to the 2002 Decision, enforced in 2008, provides for that Eurojust is acting through its national members. It is the obligation of the Member States to comply with these requirements as soon as possible.

In order to be able to respond to tasks in emergency cases, Eurojust shall set up a permanent coordination center[9] which shall receive and process requests received at any time. There is a unique contact line that is available at all times. The Permanent Coordination Center shall consist of one representative from each Member State and he may be a national member or his deputy or an assistant who may replace the national member and each of them must be available at all times.

Each Member State of the European Union shall appoint one member of Eurojust in accordance with its legal system. Eurojust members may be prosecutors, judges and members of police forces with equal capabilities. Also, each national member has one deputy and one assistant and they can all have a permanent job at Eurojust headquarters.

Eurojust College consists of all national members[10]. Each national member shall have one vote. The College is responsible for the organization and operation of Eurojust. It elects a president among its members and may, if necessary, elect two or more vice-presidents.

The President's authoritiesare to represent and manage the College and its work, and to monitor the management of the Managing Director. The President must have the prior approval of the College for certain decisions and measures.

Eurojust is assisted by a secretariat headed by an Administrative Director elected by the College by a two-thirds majority. The Election Committee elects the director from a list of candidates. The European Commission may participate in the selection procedure and be a part of the Election Committee. The College elects an Administrative Director, whose term of office is five years.

9 On-Call coordination (OCC) (eng.); *Dispositif permanent de coordination* (fr.).
10 College is also called Collegium.

2. EUROPEAN JUDICIAL NETWORK

The European Judicial Network in Criminal Matters (EJN) is a network of national contact points that facilitate judicial cooperation in criminal matters. It was established by Joint Action 98/428/PUP of 29 June 1998. However, in order to strengthen the legal status of the European Judicial Network, Council Decision 2008/976/PUP of 16 December 2008 on the European Judicial Network[11] entered into force in December 2008, while retaining other decisions made in 1998.

The contact points of the EJN in the Member States shall be designated by each Member State among its central bodies responsible for international judicial cooperation and judicial or other competent bodies having certain specific competences within the framework of international judicial cooperation. The decision defines the contact points as active mediators, and prescribes their main role, which is to facilitate judicial cooperation between the Member States of the European Union, especially in terms of combating serious crimes.

A national correspondent is appointed on behalf of each Member State, who in fact has the role of coordinator. In addition to the correspondent, a technical affairs correspondent is appointed with a task to update the information available on the EJN website. The EJN Secretariat is located at Eurojust in The Hague, which ensures the functioning of the judicial network and its continuity, and performs administrative tasks of the network.

A recent decision on Eurojust regulated in more details the cooperation between EJN and Eurojust. This decision provides for the maintenance of a privileged relationship based on their mutual complementarity and consultation, in particular as regards the contact person in the EJN from one Member State and the national member of Eurojust from the same Member State.

3. LIAISONS MAGISTRATES

The European Union's Joint Action of 22 April 1996 establishes a framework for the publication or exchange of judges or officials with special expertise in judicial cooperation procedures, called "liaison magistrates" between Member States, on the basis of bilateral or multilateral arrangements[12]. The tasks of liaison magistrates usually include any activity designed to encourage and expedite all forms of judicial cooperation in criminal and, where appropriate, civil mat-

11 *Official Journal of the European Union* L 348/130.

12 See Jörg Monar (ur.), „The Institutional Dimension of European Union's Area of Freedom, Security and Justice", *College of Europe Studies*, no. 11 (2010).

ters, in particular by establishing direct links with the relevant departments and judicial authorities in the host country. Under arrangements agreed between the home Member State of the judge and the host Member State, the tasks of liaison maistrates may also include any activities related to handling and exchange of information aimed at promoting mutual understanding of legal systems and legal databases of the countries concerned, as well as further relations between legal professions in each of these states[13].

4. EUROPOL

In the context of general development of the European Union criminal law, Europol has a very important place and plays an extremely important role[14]. However, the importance of Europol is not limited only to the field of European criminal law, i.e. the criminal law of the European Union, although these areas are by no means negligible. It is a body that is equally important in the context of international criminal law and of great importance in the context of cooperation with the International Criminal Court (ICC).

The first step of the Council of Europe towards the formalization of the European police cooperation is the establishment of the Europol Drugs Unit (EDU), which preceded the establishment of Europol. The EDU (Europol Drugs Intelligence Unit) became operational on 10 March 1995, with entry into force of the Joint Action Document (Joint action 95/73/JHA)[15]. The EDU did not have the power to detain, but had a mandate to assist national police agencies in investigations of criminal offenses[16]. The EDU existed from 10 March 1995 to 1 June 1999, when its role was taken over by Europol.

The legal basis for the establishment of Europol is set out in Article K.1. of the 1992 Maastricht Treaty on European Union. Brussels Convention on the Establishment of Europol based on Article K.3 of the Maastricht Treaty on the European Union was signed on 26 July 1995, and entered into force on 1 October 1998. This Convention established Europol, defined the organization and

13 See Miguel Ángel Campos-Pardillos, "Liaison magistrates" and "contact points" as a "remedy" against "high levels of mistrust": Metaphorical imagery in scholarly papers on EU judicial cooperation, *Ibérica* 34 (2017): 231-256.

14 See Miodrag Simović, Milan Blagojević, Vladimir Simović, *Međunarodno krivično pravo*, *2. izd.* (Istočno Sarajevo: Pravni fakultet Univerziteta u Istočnom Sarajevu, 2013), 247-248.

15 Joint action of 10 March 1995 issued by the Council on the basis of Article K.3 of the European Union Treaty in relation to the Europol Drugs Unit (95/73/JHA), Official Journal of the EU, L 62/1 of 20 March 1995.

16 See Igor Materljan, Gordana Materljan, „Europski istražni nalog i nacionalni sustavi pravnih lijekova: pitanje primjerene razine zaštite temeljnih prava u državi izdavanja naloga", *Hrvatski ljetopis za kazneno pravo i praksu*, vol 27, 2 (2020): 745-769.

manner of work and the areas of its competence. The 1997 Amsterdam Treaty gives Europol additional strength, as the umbrella of European Police Office, which is increasingly taking on a supporting and coordinating role in a number of anti-crime actions on the territory of the European Union.

The Convention establishing Europol has been the subject of a number of amendments contained in three Protocols, which entered into force after a lengthy ratification procedure. Finally, on the basis of Title V, Chapter V of the Treaty of Lisbon amending the Treaty on EU and the Treaty Establishing the European Community(Document 2007/C306/01), the European Parliament and the Council of Ministers adopted a Decision establishing the European Police Office – Europol[17], on 6 April 2009. According to that decision, Europol is no longer an international organization but becomes a supranational body of the EU, and its officials become EU staff.

Europol has the status of a legal entity, and can acquire and dispose of movable and immovable property, as well as to be a party to the proceedings. Europol's aim is to support and strengthen the action of the competent authorities of the Member States and their joint cooperation in preventing and fight against organized crime, terrorism and other forms of serious crimes, which affect two or more Member States. Europol's jurisdiction also covers criminal offenses which may be linked to criminal offenses within Europol's jurisdiction.

The bodies of the Europol shall be: a) the Director managing the institution, 2) the Management Board - composed of representatives of Member States and managing the Office together with the Director, 3) Europol officials, and the institutions and liaison officers delegated by each Member State. Europol is not hierarchically superior to the police of the Member States and its requests for conducting investigations in specific cases are not binding for the Member States because the decisions are made by consensus.

In order to achieve its tasks, competencies and objectives, the Europol cooperates with all the institutions, bodies, offices and agencies of the European Union. Europol may conclude contracts and working arrangements with those bodies. The transfer of confidential information between Europol and the listed bodies is only possible if there is a confidentiality agreement.

17 Decision number 2009/371/JHA, published in *Official Journal of the EuropeanUnion*, of 15 May 2009 (L121/37-66).

5. OLAF

The European Anti-Fraud Office (Office de Lutte Anti-Fraude, OLAF) was established by a 1999 decision of the European Commission[18]. It started working the same year. OLAF functions as a kind of department within the European Commission. It has no legal personality, unlike Europol and Eurojust[19]. It is independent in its work and has budgetary and administrative autonomy[20].

One of OLAF's basic and fundamental tasks is to strengthen the fight against corruption, fraud and other criminal activities that may affect the EU's financial interests, including serious issues relating to the performance of official duties within the EU institutions. OLAF also provides support to the EU institutions in developing and implementing anti-crime legislation and policies to the detriment of the EU budget.

OLAF has the authority to independently conduct investigations within institutions funded by the EU budget. In addition, it coordinates investigations conducted by national bodies and facilitates their cooperation. One of OLAF's more important responsibilities is to provide assistance in criminal matters in conducting criminal investigations.

6.CORPUS JURIS

The Corpus Juris of the European Union (*Corpus Juris, portant dispositions pénales pour la protection des interérêts financiers de l'Union européenne*) is a system of criminal law rules intended for the criminal justice protection of the financial interests of the European Union. It is actually an academic study that was created in 1997, later innovated with a 2000 version. It is therefore not an official document of the European Union body, but a scientific research under the auspices of the European Commission. The main goal of this study is to establish the basic criminal law principles of the fight against crime to the detriment of the financial interests of the European Union. Although this is not a supranational law governing criminal matters in the European Union, its content and structure may be reminiscent of that. Namely, the Corpus juris contains both substantive and procedural provisions. When it comes to substantive provisions, this document contains certain institutes of the general part (rules

18 *Official Journal of the EU*, Decision of the Commission of 28 April 1999 on establishment of the European Anti-Fraud Office (OLAF), L 136/20, of 31 May 1999.

19 See Brendan, Quirke, "OLAF's role in the fight against fraud in the European Union: do too many cooks spoil the broth?", *Crime, Law and Social Change*, 53, 1 (2009): 97-108.

20 See Helmut Satzger, *International and European Criminal Law*, (C.H.Beck - Hart - Nomos, 2012): 17-18.

on sanctions, guilt and delusions, elements of criminal offense, stages of the criminal offense, liability of legal entities for criminal offenses), and a total of eight criminal offenses from the special part.

Corpus Juris served as a model for the adoption and amendments of national criminal laws of Member States, but also as a model for an act called the Green Paper on the protection of financial interests, which proposes introduction of a single system of criminal offenses against financial interests for the European Union area[21]. In the period before and after this study, a significant number of sources of secondary law of the European Union were adopted, which concern criminal law matters, just as the significant practice of the Court of Justice of the European Union developed, which can be said to form the corpus of today's criminal law of the Union.

Among the most important institutes of the general part is the principle of legality. The next important institute concerns the right to punishment (*ius puniendi*), i.e. the right of the state to apply national law to cases with an element of foreignness. Regarding the general features of the criminal offense, they are also fragmented. It is not clear from the current legislation whether the continental notion of a criminal offense based on the synthesis of action, being, illegality or guilt is accepted, or the Anglo-Saxon model based on the synthesis of two elements: *actus reus* and *mens rea*.

When it comes to the form of guilt, in various acts we encounter punishment for intent, but also for negligence. We also come across mentions of complicity, attempts, voluntary renunciation of attempt, complicity in a criminal offense, standardization of preparatory actions[22], reasons for excluding criminal liability, and finally sanctions.

In the context of issues from a special part of EU criminal law, we can identify eight groups of criminal offenses. Finally, with regard to procedural provisions, this code provides for a mixed procedure with an emphasized component of the system of adversariality and the complete adversarial nature of evidentiary actions.

In summary, Corpus Juris deals with several conceptual issues: the role of substantive and procedural criminal law in the process of European integration, determination of the interests of the Union that should be protected by criminal law, and the manner and level of that protection[23]. Accordingly, Corpus Juris

21 See Mireille Delmas-Marty, John A.E. Vervaele, „The Implementation of the Corpus Iuris in the Member States", *Intersenti*a, volume 2 (2001).

22 Article 1 paragraph 2 of the Convention on the Protection of Financial Interests of European Communities requires the national legislators to also incriminate all preparation acftions for commission of European frauds.

23 See John. R. Spencer, "The *Corpus Juris* Project - has it a future?", *Cambridge Yearbook of European Legal Studies*, Volume 2 (1999): 355-372.

focuses on addressing two main issues: the feasibility of implementing Corpus Juris in relation to the national systems of the Member States, and the issue of horizontal cooperation between Member States,i.e. vertical cooperation between the Member States on the one hand and the European Union on the other[24].

7. EUROPEAN PUBLIC PROSECUTOR

The idea of the European Public Prosecutor's Office (EPPO) dates back to the 1997 Corpus Juris, and was elaborated in the 2001 Green Paper on the criminal protection of the Communities' financial interests and the establishment of the European Public Prosecutor[25]. The idea was primarily to set up a body responsible for investigating and prosecuting acts against the European Union's financial interests, headed by a Brussels-based chief European Prosecutor with deputies in each Member State.

The establishment of the European Public Prosecutor's Office is provided for in the Treaty of Lisbon (Article 86 UFEU)[26]. The Decree on the Establishment of the European Public Prosecutor's Office was adopted by the Justice and Home Affairs Council on 12 October 2017, and entered into force on 20 November 2017[27].

The European Public Prosecutor's Office works closely with national criminal prosecution bodies, as well as with other bodies such as Eurojust and Europol[28]. It has a structure consisting of two levels: a) strategic, which further consists of the Chief European Prosecutor responsible for the management of EPPO and the organization of its work and the collegium of prosecutors responsible for decision-making on strategic issues; b) operational, consisting of delegated European prosecutors responsible for conducting criminal investigations and prosecutions and permanent councils that will monitor and manage investigations and make operational decisions[29].

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24 See Alexander Belohlávek**,** Naděžda Rozehnalová (ur.), *Czech Yearbook of International Law*, Volume I (2010): 129.

25 See Katalin Ligeti, „Struktura Ureda EJT-a: obilježja i izazovi", *Hrvatski ljetopis za kazneno pravo i praksu*, vol. 27, 1 (2020): 33-53.

26 See Rositsa Zaharieva, „The European Investigation Order and the Joint Investigation Team - which road to take, A practitioner's perspective", *ERA Forum*, vol. 18 (2017): 397-408.

27 See Inés Armada, "The European Investigation Order and the lack of European standards for gathering evidence: is a fundamental rights-based refusal the solution?", *New Journal of European Criminal Law*, Volume 6 issue: 1 (2015): 8-31.

28 See Katalin Ligeti, "The Place of the Prosecutor in Common Law and Civil Law Jurisdictions" in Brown, D.K., Iontcheva Turner, J., and Weisser, B. (eds), *The Oxford Handbook of Criminal Process* (OUP, 2019): 139-164.

29 See Ligeti, Katalin, João Antunes, Maria, Giuffrida, Fabio (eds). "The European Public Prosecutor's Office at Launch. Adapting National Systems, Transforming EU Criminal Law (Wolters Kluwer &

The Office is organizationally and functionally independent from national prosecutors' offices, although it represents prosecution before national courts and under national criminal laws. At the very beginning, the shortcomings of such a concept stand out, among which the danger of the so-called shopping forum - a situation in which the European prosecutor could calculate in which country he would initiate criminal prosecution, which would violate the principle of predictability of criminal law. Equally, problems can arise in the organization of defense[30].

Like many national prosecutors' offices in comparative law, a European public prosecutor would be obliged to determine the circumstances with equal care and to gather evidence both to the detriment and to the benefit of the suspect. Another important issue and idea in the way the Office works is the free circulation of evidence[31]. Any evidence gathered in the investigation by the Office of the European Prosecutor should be able to circulate in the area in which the Office has jurisdiction, regardless of court approvals at national level.

8. CONCLUSION

In the context of protection of the financial interests of the European Union[32], and development of the criminal law of the Union, important new institutes of criminal law were introduced, such as the European arrest warrant, the European evidence order, the European criminal record and similar. In order to practically achieve the protection of the interests of the Union and the application of the rules of criminal law of the Union, there was a need to form appropriate specialized bodies that will be outside the competence of Member States, and at the same time be connected with the bodies of Member States, and achieve mutual cooperation and cooperation with the relevant bodies of the Union. The activities of these bodies reopen the issue of interference with human rights, just as the same issue is raised in national criminal legislations during the activities of national authorities, especially in the investigation phase. One of the

CEDAM , 2020): 163-170.

30 See Barbara Herceg, Igor Vuletić, „The Lisbon Treaty as the first step towards the European Criminal Court, The role of national criminal law in the European Union area and the alternative resolution of criminal", *Section of Criminal Law Bratislava*, (2011): 171–180.

31 See Lorena Bachmaier, „Transnational Evidence Towards the Transposition of Directive 2014/41 Regarding the European Investigation Order in Criminal Matters", *The European Criminal Law Associations Forum,* 2 (2015): 47-60.

32 See Maria Kaiafa-Gbandi, "The protection of the EU's financial interests by means of criminal law in the context of the Lisbon Treaty and the 2017 Directive (EU 2017/1371) on the fight against fraud to the Union's financial interests", *Zeitschrift für Internationale Strafrechtsdogmatik*, 12 (2018): 575-582.

very important issues that arises is the issue of transferring evidence from one type of proceedings to another, which has its own repercussions.

Criminal law, as a branch of public law, is an extremely important segment of the exercise of the sovereign power of the state on its territory. At the same time, this very branch of law, which requires a clear and precise system of rules, is much more difficult to transfer to other legal systems than other branches of law, among other things due to conceptual differences. The differences that developed over the centuries between the European-continental and Anglo-Saxon legal systems further complicate the transfer of both substantial and procedural institutes.

Regardless of the above stated, the intention of the Union to take over a greater degree of competences in the field of criminal law, i.e. to create unified system of criminal law in the territory of the Union, is evident. Such an intention is also logical - it is about already formed unified legal order and the community whose financial interests cannot be fully protected without criminal protection[33]. Among the most glaring indicators of this intention are the European Public Prosecutor and the Corpus Juris. It is no coincidence that the European Public Prosecutor is initially prosecuting charges before national courts, nor that the Corpus Juris is an academic study and not a binding legal act. In this way, the criminal law of the European Union enters through the back door, creating minimal frustration for Member States that are not yet ready to transfer such a degree of their sovereignty to the Union.

In this regard, in terms of *de lege ferenda* solutions, it is to be expected to insist on the harmonization of national criminal regulations within the Member States of the European Union, especially in the procedural part, where the biggest role should be played by Corpus Juris, for now an academic study, to become the criminal code of the European Union in the future. It is certainly to be expected that the case law of the Court of Justice of the Union as an „engine of integration" will go in the direction of the development of the criminal law of the Union.

LITERATURE

- Armada, Inés, "The European Investigation Order and the lack of European standards for gathering evidence: is a fundamental rights-based refusal the solution?", *New Journal of European Criminal Law*, Volume 6 issue: 1 (2015).

33 See Constanza Di Francesco Maesa, "The Directive on the Fight against Fraud to the Union's Financial Interests by means of Criminal Law: A Missed Goal?, Insight", *European forum* (2018): 1-15.

- Bachmaier, Lorena, „Transnational Evidence Towards the Transposition of Directive 2014/41 Regarding the European Investigation Order in Criminal Matters“, *The European Criminal Law Associations Forum,* 2 (2015).
- Campos-Pardillos, Miguel Ángel, "Liaison magistrates" and "contact points" as a "remedy" against "high levels of mistrust": Metaphorical imagery in scholarly papers on EU judicial cooperation, *Ibérica*, 34 (2017).
- Delmas-Marty, Mireille, A.E. Vervaele, John, „The Implementation of the Corpus Iuris in the Member States“,*Intersenti*a, volume 2 (2001).
- Di Francesco Maesa, Constanza, "The Directive on the Fight against Fraud to the Union's Financial Interests by means of Criminal Law: A Missed Goal?", Insight, *European forum*, (2018).
- Herceg, Barbara, Vuletić, Igor, „The Lisbon Treaty as the first step towards the European Criminal Court, The role of national criminal law in the European Union area and the alternative resolution of criminal“, *Section of Criminal Law Bratislava*, (2011).
- Kaiafa-Gbandi, Maria,"The protection of the EU's financial interests by means of criminal law in the context of the Lisbon Treaty and the 2017 Directive (EU 2017/1371) on the fight against fraud to the Union's financial interests", *Zeitschrift für Internationale Strafrechtsdogmatik*, 12 (2018).
- Koutrakos, Panos, "Institutional Balance and Sincere Cooperation in Treaty-Making under EU Law", International & Comparative Law Quarterly, 68 (1): (2019).
- Ligeti, Katalin, "The Place of the Prosecutor in Common Law and Civil Law Jurisdictions" in Brown, D.K., Iontcheva Turner, J., and Weisser, B. (eds), *The Oxford Handbook of Criminal Process* (OUP, 2019).
- Ligeti, Katalin, "Struktura Ureda EJT-a: obilježja i izazovi", *Hrvatski ljetopis za kazneno pravo i praksu*, vol. 27, 1 (2020).
- Ligeti, Katalin, JoãoAntunes, Maria, Giuffrida, Fabio (eds)."The European Public Prosecutor's Office at Launch.Adapting National Systems, Transforming EU Criminal Law (Wolters Kluwer & CEDAM 2020).
- Materljan, Igor, Materljan, Gordana, Europski istražni nalog i nacionalni sustavi pravnih lijekova: pitanje primjerene razine zaštite temeljnih prava u državi izdavanja naloga, *Hrvatski ljetopis za kazneno pravo i praksu*, vol 27, 2 (2020).
- Monar, Jörg (ur.), „The Institutional Dimension of European Union's Area of Freedom, Security and Justice“, *College of Europe Studies, Brussels, 11* (2010).
- Quirke, Brendan, "OLAF's role in the fight against fraud in the European Union: do too many cooks spoil the broth?", *Crime, Law and Social Change*, 53, 1 (2009).
- Satzger, Helmut, *International and European Criminal Law*, C.H.Beck - Hart - Nomos, 2012.
- Simović, Miodrag, Milan Blagojević, Vladimir Simović. *Međunarodno krivično pravo*, *2. Izd.* Istočno Sarajevo: Pravni fakultet Univerziteta u Istočnom Sarajevu, 2013.
- Spencer, John R., "The *Corpus Juris* Project - has it a future?", *Cambridge Yearbook of European Legal Studies*, Volume 2 (1999).

• Zaharieva, Rositsa, „The European Investigation Order and the Joint Investigation Team - which road to take, A practitioner's perspective", *ERA Forum*, vol. 18 (2017).

ОРГАНИ КРИВИЧНОПРАВНЕ И ПОЛИЦИЈСКЕ САРАДЊЕ У ЕВРОПСКОЈ УНИЈИ, ЕВРОПСКИ ЈАВНИ ТУЖИЛАЦ И *CORPUS IURIS*

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Сажетак: Европска унија већ дуго чини одређене напоре у правцу развоја кривичног права Европске уније, чији би основни циљ био заштита финансијских интереса Уније. У ту сврху дошло је до увођења одређених нових кривичноправних института типичних управо за ову грану права. Међутим, да би дошло и до стварне реализације и примјене механизама заштите интереса Уније, указала се потреба и за формирањем органа полицијске и кривичноправне сарадње унутар Уније, који ће бити независни од кривичних законодавстава држава чланица, али паралелно остваривати велики степен сарадње и међусобно, али и са националним органима држава чланица, све у сврху брже, ефикасније и једноставније сарадње и заштите вриједности Уније. У том контексту, су и увођење европског јавног тужиоца, те академске студије Corpus iuris, за коју многи сматрају да представљају претечу кривичног законика Европске уније. У раду су детаљније представљени органи за правосудну сарадњу међу државама чланицама – Eurojust, Европска правосудна мрежа, Судије за везу, Europol, Европски уред за борбу против превара – OLAF, европски јавни тужилац, теCorpus iuris. Уз то, предмет пажње су и тенденције у заштити људских права.

Кључне ријечи: кривичноправна сарадња, полицијска сарадња, Eurojust, Европска правосудна мрежа, Судије за везу, Europol, OLAF, европски јавни тужилац, CorpusIuris.

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