



IRCP

Institute for International Research on Criminal Policy
Ghent University

Prof. Dr. G. Vermeulen – EULOCS: Enhancing EU criminal policy coherence – Stockholm Criminology Symposium, 22 June 2009

EULOCS session II

The EU level offence classification system:
A bench-mark for enhanced internal
coherence of the EU's criminal policy

Prof. Dr. Gert Vermeulen

Stockholm Criminology Symposium, 22 June 2009



Potential added value in numerous spheres

- > mutual legal assistance instruments
- > mutual recognition instruments
- > exchange of criminal records data
- > approximation of procedural law
- > delineation of mandates/EU-worthiness
- > protection of the internal market



Mutual legal assistance (MLA) instruments

- > dual sanction threshold for certain forms of MLA
- > approximation acquis
 - > including minimum sanction levels, which are higher than traditional MLA thresholds
- > limit threshold test to bare necessity
- > use jointly identified offences (JIOs) and approximated sanctions to speed up MLA and even allow for it in case MS have not criminalised and sanctioned as required
 - > (scarce) instruments already do refer to JIOs ad hoc



Mutual recognition instruments

- > abandonment of dual criminality test
 - > for 32+ offences, left to exclusive definitional discretion of the issuing MS
 - > official rationale: differences not significant
 - > practice proves differently (cfr also EEW)
 - > moreover: illogical to lift a condition which is fulfilled
- > EULOCS
 - > reintroduction of logic: no dual criminality test only for the JIOs/JIO parts
 - > would even allow to drop artificial 'enumeration'-based list (which is not time-proof, clearly)



Exchange of criminal records data

- > Art 22 1959 MLA Convention, 2008 FD prior convictions, 2009 FD organisation/content, ECRIS
- > EULOCS
 - > allows to introduce JIOs in ECRIS
 - > which would add to interpretation/sensing of the seriousness/comparability in applying the 2008 FD
 - > scope of application of the latter could/should be limited to JIOs/-parts, like in other MR instruments
 - > to that end, judges could state whether domestic qualification coincides with EULOCS qualification
 - > would allow Eurojust/Eurojust/third MS ... access



Approximation of procedural law

- > initiatives underway
 - > Lisbon will formally allow for such approximation
 - > some MS are/remain reluctant
- > IRCP study “Standards in witness protection and cooperation with justice”
- > EULOCS
 - > limit approximation *ratione materiae* to JIOs
 - > e.g. crimes within the ICC mandate, terrorism in the sense of the FD on terrorism, etc



Delineation of mandates/EU-worthiness

- > current situation is confusing
 - > e.g. Europol vs Eurojust
- > EULOCS
 - > minimum definitions/JIOs as maximum mandates
 - > advantages
 - > common interpretation Europol-Eurojust offences
 - > added value in uploading into/strengthening EIS etc
 - > easing of tension between EU/domestic competence
 - > no (parallel) EU competence but for JIOs
 - > limit right of initiative EU bodies and duty MS to cooperate with the to JIOs



Protection of the internal market

- > importance of fair competition
- > conditions for public procurement
- > EULOCS
 - > would allow EU certificate of non prior conviction
 - > limiting exclusion criteria to JIOs



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Questions & discussion
