

Organised Crime

- Tampere programme set up in 1999 was designed to accelerate efforts made at EU level to fill gaps that criminal groups profit for their activities.
- As to integrate different tools and measures taken at local, national or EU level, the European Council approved on 5 November 2004 the current political basis is the **Hague programme**. It gives a new impetus to the development of the corpus iuris on the prevention and fight against OC.

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- In order to realise the Hague Programme, the Council and Commission Action Plan implementing the Hague Programme on strengthening freedom, security and justice in the European Union was adopted on 2 June 2005 (2005/C 198/01).
- aims and priorities are translated into concrete actions, including a timetable for the adoption and implementation of all actions.
- Due to broad scope approach in the Hague Programme and Action Plan, it was inevitable to provide details to OC related matters in special **Communication "Developing a strategic concept on tackling organised crime"** COM(2005) 232 from 2 June 2005.
- sets up one coherent framework for all measures – preventive, criminal and regarding procedural law.

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- Hague Programme and the Communication on strategic concept on OC are the framework of MS and EU initiatives for the next five years.
- set up strategic priorities and objectives completed by concrete actions aiming to achieve them. This is a comprehensive and cross-cutting strategy.

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- The key priorities of policy development are related to:
 - knowledge of OC – setting up of reliable crime statistics system; synchronisation of national threat assessment aiming at the implementation of “European Criminal Intelligence Model”
 - prevention of OC) – anti-corruption policy; Private-Public Partnerships;
 - cooperation - investigation techniques, law enforcement bodies on EU and international levels; retention of communication data traffic; investigations in financial organised crime; mutual recognition principle
 - strengthening legislation; FD on criminal organisation, money laundering, financing terrorism, crime proofing, counterfeiting
 - international cooperation with third countries and organisations .

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Policy development priorities concerning combating organised crime

- Based on previous assessments and in view to carry out the political priorities, the Commission identifies 5 main objectives.
- All regard the development and strengthening of the existing mechanisms, tools and bodies in the **improvement of knowledge on OC, strengthening its prevention, improving cooperation tools and use of relevant bodies, developing legislation where needed and enhancing relations with non EU countries following areas of OC and regards**

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1. Improvement of knowledge on OC

- to well know and fight OC, it is first necessary to settle up a reliable crime statistics system.
- Currently, existing national data are not comparable, they could even misleading.
- work on crime and victims statistics is a long term process which will result in harmonisation of crime definition, minimum penalties and criminal justice measures.
- Truly comparable data will allow to prioritise measures, addressing particularly vulnerable economic sectors, as well as evaluate effectiveness of action and monitor Community funding programmes.

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- an EU intelligence-led law enforcement mechanism should imply production of European criminal intelligence and enhanced trust between law enforcement authorities.
- The synchronisation of national threat assessments based on a common methodology will thus lead to a setting up of a “**European Criminal Intelligence Model**”
- key element of the Model will be a **European OC threat assessment** done by Europol as of 1 January 2006 following The Hague Programme
- ambitious scope which will imply human and financial allocation of resources both on national and EU level

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2. Strengthen OC prevention

- to effectively fight against OC it is necessary not to limit to classical law enforcement cooperation but to develop a preventive approach by administrative or legislative tools.
- including good governance, transparency, accountability and social responsibility standards for the public and private sector to reduce crime opportunities.
- the crime proofing framework is being developed further; the relevant Communication is under preparation.

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- One key tool by which OC infiltrates licit markets is corruption. Therefore further development and implementation of a comprehensive EU anti-corruption policy taking into account the UN Convention against Corruption (approved by EC on 15 September 2005) is essential to improving the functioning of economic mechanism.
- This anti-corruption strategy implies criminal law measures, promotion of ethics and integrity in public administration by the means of by ethic codes and codes of conduct.
- the **Public Private Partnerships** are designed to be an effective tool for preventing crime in general, and OC in particular.

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3. Improving cooperation

- regarding investigation techniques, further work is needed to improve the use of **Joint Investigation Teams (JITs)** and regarding the evidences, the principle of mutual recognition should led to the development of the European Evidence Warrant.
- scope is to enhance mutual trust by ensuring a fair balance between efficient prosecution and defence rights. Further initiatives are being carried out on electronic evidence in financial investigations.

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- Another important element of the preventing and fighting against terrorism and OC is the **retention of communications traffic data**. This issue has provoked a lot of discussion regarding the legal base and the balance between safeguarding fundamental rights and security, investigation reasons.
- Directive proposed by the Commission provides for harmonisation of the obligations on providers of publicly available electronic communications or a public telecommunications network to retain data related to the usage of mobile and fixed telephony as well as the internet communications for a period of one year and six months respectively.
- Council and European Parliament agreed on a Data Retention Directive in December 2005.

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- Regarding **financial organised crime**, it is urgent to enhance investigation capabilities among law enforcement forces.
- key to fighting criminal activities is to set up appropriate legal instruments aiding rapid identification and tracing of illicit financial transfers and other transactions.
- three Framework Decisions deal with the possibility of **freeze and confiscate the proceeds of crime**. In addition, the Commission will explore standards on the return of confiscated or forfeited assets as compensation or restitution to identifiable victims of crime or charitable organisations.

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- Recently adopted **Third money laundering Directive** strengthens existing Community anti-money laundering legislation by e.g. widening the definition of predicate offences and adding new categories of persons subject to reporting obligations.
- will apply to natural or legal persons selling goods for payments in cash of EUR 15 000 or more, whether the transaction is carried out in a single operation or involves several operations.
- concerns credit and financial institutions; auditors, external accountants and tax advisors; independent legal professionals; trust and company service providers; real estate agents and casinos. EU MS undertake to prohibit their credit and financial institutions from keeping anonymous accounts.

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- Hague programme stresses that **the potential of the existing bodies is to be more exploited.**
- Europol and Eurojust should be more closely involved in the investigation phase of cross-border OC cases and in JITs. The cross-border exchange of law enforcement information implies common standards for access to databases and interoperability of national and EU databases should contribute to the enhancement of trust among law enforcement officers.
- **Joint customs, police and/or judicial operations** should become a frequent tool of practical cooperation.

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4. Strengthen legislation where needed

- OC implies a common basis in counter it.
- Commission intends to follow two approaches – **the approximation of legislation** (for instance in the fields of counterfeiting, illicit arms trafficking, fraud, money laundering, crime proofing, misuse of non profit-charitable sector for criminal or terrorist purposes) and the use of **mutual recognition principle** in judicial decisions in criminal matters.

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- An important instrument that bridges the gap between EU MS' criminal legislation is being discussed in the Council a proposal for a Framework Decision on participation in a criminal organisation.
- defines offences committed by persons taking part in a criminal organisation, covering not only the criminal activities of the organisation as such, but also other acts ranging from the provision of material assistance to a criminal organisation to the recruitment of new members.
- instrument's main advantage over the Joint Action adopted in 1998 lies in its binding effect and the fact that it genuinely harmonises offences.
- Proposal approximates criminal penalties depending on the method used in the relevant instruments.
- Maximum term of imprisonment for directing a criminal organisation may not be less than ten years, while for other offences the maximum term may not be less than five years.

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5. The internal security is narrowly linked with external actors

- third countries, regional initiatives and international organisations.
- EU is a major partner on the international scene in the fighting against OC.
- Close cooperation has been established through agreements and other instruments with many partner countries and international organisations such as the Council of Europe, OSCE, OECD, G8 and the United Nations.
- EU Strategy for the external dimension of Justice and Home Affairs: Global Freedom, Security and Justice which sets out thematic priorities, key principles and the policy tools at the EU's disposal, as well as EU structures and processes, to deliver concrete results.

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Conclusion

- all the instruments available to the EU should be used in a consistent manner so that the key concern – the fight against terrorism and OC – is fully addressed.
- Crime and terrorism prevention and fighting is one of the citizens priorities for European cooperation.
- The Hague programme addresses in a comprehensive manner this challenge of strengthening and deepening existing legislative and operational instruments and mechanisms in order to guarantee a really stronger and safer society.