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Concerns of European Union Member States to Improve the Exchange of Information and to Eliminate the Threats to Public Security by Serious Violent and Sexual Offenders

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Abstract: The internal security of the European Union is a key issue for European citizens and one of the problems that could affect this objective is the risk of harm to bodily integrity and health by criminals who commit serious violent crimes or sex offenders, who can travel across the open borders of Europe. In this regard, it is very important that all law enforcement agencies or other national institutions and structures must involve in identifying the best policies and practices to manage this phenomenon. The European Commission initiated the **SOMEK Project- Serious Offending by Mobile European Criminals**, which succeeded in synthesize all the information provided by the Member States' authorities, resulting in a number of relevant conclusions and providing valuable suggestions. The agencies at European level- EUROPOL, or at international level- INTERPOL are deeply involved in combating serious violent or sexual criminality, which could threaten EU citizens, providing the expertise and resources needed for such an approach. Romania is part of this fight against cross-border criminality through its structures and actions taken. In conclusion, the risk of potential harm to children, in particular, has been raised by all the parties involved, both at country level and at Community level, with efforts for manage all these mobile offenders.

Keywords: information exchange; cooperation; sexual offenders; serious violent offenders; cross-border; crimes

The internal security of the European Union was a permanent and extremely important issue which assumes the involvement of all law enforcement agencies or other national institutions and structures in taking the best policies and practices to assess the existing risks that may pose threats to European citizens.

One of the issues has been identified as the risk of harm to bodily integrity and health by the perpetrators of serious violent crimes or sex offenders who could travel freely in a Europe without borders, as is the European Union now.

The opening of the European borders, which has allowed offenders to become extremely mobile, as well as the globalization of criminality of any kind, has been intensively analysed by the law enforcement authorities, but also by the specialized literature, in order to identify solutions to stop the mobility of the perpetrators. and in this way to reduce the risk of cross-border crime- *"... as in recent years, the phenomenon of general globalization has proved to be faster than the capacity of people to adapt to the new realities they face, cross-border crime has often managed to surprise the authorities of the states, both by the speed they have expanded and by the importation of new modus operandi... Awareness of these threats and having a constant pressure behind them as a result of the intensification of public opinion, law enforcement agencies have created, in time, regional units, based on cross-*

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border criminality, which have subsequently developed, acquired an international character, benefiting from an increasing political support, extending to a wide range of crimes and creating numerous bridges and channels of communication between the authorities of the states involved” (Vasile, 2016).

This shift in serious and organized crime, as a result of globalization, has been felt most acutely in recent years, regarding the child sexual exploitation. Sex offenders have become very skilled, encouraged by the current context at European level, by opening the borders, travel opportunities and the internet all over the world, so they have increased their travelling for sexual tourism, preferring countries in Asia but lately, also in European countries.

A number of serious cases with a significant emotional impact have happened in the recent years that came along the idea of the extremely high degree of danger posed by this type of crime, sexual abuse and serious violent crime, increasing concern in the European Union and strengthening the necessity for taking some measures in this regard.

Among these, a tragic example in The Great Britain, taken place in 2008, in Glasgow, when Moira Jones, a young Scottish girl, was abducted, raped and murdered by Marek Harcar, originally from Slovakia. Scottish Police were unaware of his prior criminal history (he had thirteen previous convictions, but four for violence) and he had entered Scotland unmonitored and this facilitate his recidivism.

Another significant example that illustrated this idea was the case of the criminal Robert Mikelson, originally from Latvia, who lived and worked in Germany, where he served a prison sentence in 2003 for distributing child pornography. On released he moved to the Netherlands and he hired at day-care centers, child care facilities and as a private baby sitter. The authorities and the employer were not aware of his offending history, because the convictions were previous in Germany, so gave him the opportunities to work in an environment with many children, to care about them. The perpetrator, Robert Mikelson went on to sexually assault many of the children in his care from 2007 to 2010. He was charged with sixty-seven counts of sexual assault and raping a minor and sentenced in April 2013 to eighteen years’ imprisonment.

All these premises led to the conclusion that it is mandatory for the European country to improve the assessment of these high-risk offenders as well as improving the exchange of information and cooperation between European police forces.

These strict necessity and joint efforts were also supported by the European Commission that carried out the *SOMEK Project– Serious Offending by Mobile European Criminals*, attended by representatives from all Member States, prestigious universities and specialists in this field, non-governmental organizations, etc. The project was coordinated by the Great Britain by National Offender Management Service (NOMS), as main partners- Latvia, The Netherlands and Spain (Catalonia), but also a lot of important institutions and agencies as The Home Office, ACPO- Association of Chief Police Officers, NCA- National Crime Agency UK, CEP- The European Organisation for Probation, London Probation Trust, Ministry of Security and Justice– Netherlands, Latvian State Police, State Probation Service of Latvia, De Montfort University, Department of Prison and Probation Catalonia– Spain and associated partners as Europol, Eurojust, Probation Chiefs Association.

During the period of two years, the project took place in several stages and different forms- assessment of the current situation and risks, as well as assessment of the information come up through international channels, a comparative study and analysis of current practice within the Union. European Parliament (using questionnaires that were provided to all Member States to be completed), working meetings,

conferences with focus groups, the final conference. The last stage was the conclusions and recommendations resulting from the closing conference of the project, followed by the dissemination of the results.

The objectives of this important project, SOMEK, are as follows:

- To assess the threat posed to EU citizens when serious violent or sexual offenders travel between EU Member States;
- To identify the most efficient methods and mechanisms used by EU Member States in the management of serious violent or sexual offenders travelling across EU borders;
- To analyse good practice and make recommendations to facilitate the improved exchange of information for the prevention of crime.

Specifically, related to the sexual and serious violent crimes, the aspects that have to be clarified within this project could refer to:

- ❖ How EU Member States identify and manage serious violent or sexual offenders;
- ❖ How EU Member States identify serious violent or sexual offenders who may travel to other EU Member States;
- ❖ Which are the methods of information exchange used in international cooperation for these perpetrators;
- ❖ What EU Member States manage the information received from another country about serious violent or sexual offenders entering their country.

Within the Project, a series of definitions or classifications of offenses were outlined, for a common understanding of the terms, for all member states, in order to achieve a common approach in taking the necessary measures to improve the exchange of information.

Offender– The person who has committed an offence and was found guilty by a judge for one or more specific sexual or violent offences and have served / are serving a sentence for those offence.

Serious violent offences- Intentional killing, Aggravated case of Intentional Killing; Unintentional Killing; Violence causing death, Grievous bodily injury, Disfigurement or permanent disability or torture.

Serious sexual offences– Rape, aggravated rape, sexual assault, rape of a minor, sexual assault of a minor.

Another important issue to be clarified was the type of data and information that have to be exchanged between each judicial authority:

- Personal data of identification;
- Previous convictions– the criminal record;
- Current allegation/investigation;
- Offender assessment about the risk of serious harm;
- Modus Operandi, circumstances of offending;
- Any other intelligence that could be helpful for the investigators.

By the questionnaires used, within the Project, there were identified all the methods used by the Member States to exchange information regarding this type of offenders: The analyses carried out following the responses from the participating country have identified a number of benefits in terms of how information exchanges take place, as well as certain challenges that need to be solved:

1 INTERPOL– dissemination channel

Through this dedicated channel I 24/7 (access restricted at the level of law enforcement authorities) different information is disseminated to one or more states; but some countries do not always respond to requests, and certain details required for sexual offenders are not provided through these channels;

2 Interpol Green Notices– Green Notice

Used as warning systems for a wide range of criminals who could travel the world; however, it is rarely used to disseminate information about sexual offenders; this is also due to reluctance of member states to use this channel, which is different from Europol;

3 Europol Information System– restricted analysis information system

Collects data and information from Member States, for analysis; is very often used by law enforcement agencies in Member States; however, they are more targeted at organized crime and terrorism.

4 Schengen ALERT SIS II

It is used for people who are supposed to commit serious crimes or who are a threat for public security; these are for discreet location and warning of the judicial authorities about a certain person; are widely used, with millions of alerts; also, in this case, they are not used for the sex offenders; the issue requiring an analysis and a decision at European level, in this regard;

5 ECRIS- European criminal record data base

This is the mandatory mechanism for the exchange of criminal record data, it is operational in all European states; but the system is limited to this kind of information and no operational data could be transmitted; it is also managed by various structures, not only police unit, which sometimes complicates the flow of data;

6 Prum Treaty– database for DNA, fingerprints, vehicle registration

This channel works only as an automatically database that provides sometimes, from an investigative point of view, a positive result (HIT / NO HIT), so that it can only support the investigative efforts of the police, and no data about their location; it is used for all kinds of crimes, but it is not yet operational in all the states;

7 The liaison officer and internal attaché

Embassy staff may have a role, as they are supposed to have some formal links with judicial authorities, but their role is usually post-event, to facilitate investigations and provide data and information;

8 Single Points of Contacts (SPOC)– within the international cooperation unit

Not all Member States have a single point of contact, which makes it difficult to exchange information and bureaucratizes the work of those structures, in order to know what is coming in and what is coming out, regarding the information flow;

9 Bilateral and multilateral arrangements

There are agreements between states that can provide support for sex offenders, but more on the investigative side or the establishment of certain rules or priorities between those states; however, they may also be used for the exchange of information on the sex or violent offenders;

10 Informal arrangements local or regional

Informal arrangements are often formed and driven by operational expediency and are often preferred by law enforcement personnel; could be a support tools for managing this issue.

It was concluded that none of the existing mechanisms is able to cover all the needs of managing the issues imposed by the mobility of sexual offenders.

At the end of the project, as the conclusions resulting from the studies carried out during the two years, there were identified by the project, some difficulties, operative, in the bilateral cooperation between some different country, such as lack of resources to identify all these traveling criminals, and cultural, social or ethnic differences. Although there are a number of information exchange channels, it has been found that this could be considered as a deficiency, taking into consideration a reluctance from some law enforcement agencies, in certain states, or even from specialized staff, due to ignorance or various principles.

These must be removed by finding unanimously accepted solutions at the level of each European country. The SOMEK project managed to synthesize certain conclusions from the analysis but also to propose some suggestions for improving the mechanism of information exchange and international cooperation, thanks to the strong participation of national authorities and specialists from academia.

They have been grouped into two categories, the first concerns proposals at European level, for the European Commission and the European Council:

- Creating a common standard for defining notions regarding offences, that would be agreed by all Member States;
- Regarding the list of serious crimes, the kidnap must be added, because this often leads to very serious consequences;
- Harmonization a common strategy for monitoring and supervising offenders convicted of sexual offenses or serious crimes, after released, at European level, both in terms of parolees and those without obligations;
- Establishing Single Points of Contact available for both institutions involved in the management of sex offenders, Probation and Police;
- Finding a solution for the exchange information about judicial proceedings against a person who has not been convicted yet, but the trial is ongoing, during these proceedings, by the request of interested states;
- Further promotion of the provisions of the Council Framework Decision no. 2006/960 /JHA, called the Swedish Initiative, for wide use;
- Extending the use of the SIS II Alert System, regarding the location and monitoring of sex or violent offenders.

For the second set of proposals, the Member States are targeted:

- Issuing a minimum standard for assessing these types of criminals, sex and violent offenders, for the next development of procedures, for their management;
- Creating mechanisms, protocols between the responsible authorities involved in monitoring sex offenders, who will collaborate better in this way;
- Training the staff of the law enforcement authorities in the Member States, related to the channel of international cooperation, for a better efficiency of data exchanged;
- Creating concrete mechanisms for information exchange and procedures for carrying out the activities of handing over / extraditing the criminals when they are located in foreign states;
- Organizing training courses or sessions to raise awareness of the importance of better knowing the channels of cooperation and exchange information.

The principles we must be guided by, are that international regulations protect fundamental human rights and freedoms, but also the belief that every European citizen has the right to be safe where he or she lives and that their state will do all that could be done to protect them, also the European Union citizens have the right of freedom of travelling across EU Member States borders, but without this right being violated by the rights of other persons.

It should be mentioned that, together with all Member States, the Romanian Police actively participated in this important project, through the specialists of the Central Directorates, who provided the necessary expertise to achieve its objectives.

Against these forms of child sexual exploitation of children, all specialized structures and specialist divisions within Europol, Interpol and other law enforcement agencies are joining forces to identify the best solutions to combat this type of crime.

Child Sexual Exploitation is one of the priorities of the **European Police Office– Europol**, so this issue is part of analysis made within **SOCTA 2017- Serious and Organized Crime Threat Assessment** (European Police Office, 2017) and Multi-Annual Strategic Plans.

Europol has set the Policy Cycle, who lasts four years, to optimize the crime priorities agreed by all Member States, and the Europol's priorities are relying on the analytical reports of the SOCTA, produced in these four-year cycles. As a consequence of SOCTA, assessments will be led to Operational Plans with a lot of operative activities for the next four years.

The EU Serious and Organized Crime Threat Assessment (SOCTA) is the product of systematic analysis of law enforcement information on serious and organized criminal activities, which assist the decision-makers in the prioritization of the threats on EU level.

As mentioned, Child Sexual Exploitation is considered as a threat to European Union, being one of the points in the analytical report- SOCTA 2017. It is important to mention that it was an increase in the volume of material of child pornography on the internet in the last period of time and the paedophiles used the coercion and sexual extortion for victimize the children and to obtain significant financial gains. Also, these are used to get physical contact with the minors.

One of the most efficient tools used by EUROPOL were the Analysis Projects– APs (these were known also as Focal Point- PF, Analysis Working File- AWF). These Analysis Projects are focused on Europol's priorities, an information processing system which facilitate the work of the specialists by prioritize and limit the resources for some significant operative activities in some specific moments. These Projects support EU law enforcement authorities and other partner organizations to tackle

organized crime through analysing and structuring the concrete information in the database, facilitating operational meetings between partners involved in cases, deploying Europol mobile offices to the field for operations for having live access to Europol's secure information exchange network and databases, providing expertise and training to national law enforcement authorities.

One of this Analyses Projects is about the prevention and combating of all forms of criminality associated with the sexual exploitation and abuse of children- **Analyses Projects TWIN** supports national law enforcements activities for identifying all the forms of creation and distribution of child abuse material through all kinds of online environments and other type of sexual abuse involving children.

Analysis Projects PHOENIX has some connections with this field because it deals human trafficking or other forms of exploitation like sexual and labour exploitation, begging, forced marriages, child trafficking and human organ trafficking.

Although there are no criteria for organized crime, Europol classifies these offenses as particularly serious due to injuries, physical and psychological, for the most vulnerable groups, the children. One of the reasons that increased this phenomenon of child pornography was definitely the widening of broadband internet, and the easy access to internet services for more and more people.

Another specific modus operandi in the matter of child sexual exploitation that was serious increased is so-called "*Live distant child abuse (LDCA)*", which become a significant threat. LDCA means that a child is sexually assaulted being forced, usually by a family or a community member, to engage in sexual activities or even be sexually abused in front of a webcam. This abuse is live streamed over the internet to an offender who is paying to view and also direct the activities. After that, these images will be broadcast online for gaining big amount of money. This form of online child sexual abuse is common in South East Asia area.

Also, there are another modus operandi, very often used by the perpetrators, the activities that involved private filming and photos taken by children or teenagers themselves, so-called "*Self-Generated Indecent Material (SGIM)*". After that, they send those images or photos to their known people or supposed to be known, and then are accidentally or premeditatedly distributed on social networks.

Another important organization, **INTERPOL- International Criminal Police Organization**¹ is very involved in fighting against child sexual exploitation, in order to combating this type of criminality. The most important aspects that are monitored by Interpol are sexual abuse and exploitation, trafficking of minors, forced labour and abduction. Due to the fact that child exploitation is a priority for OIPC-INTERPOL, it was establishing a specialized unit - *Crimes Against Children Unit* who as the following competence: to identify and rescue children victims of sexual abuse, blocking access to sites with child pornography content, prevent sex offenders from travelling abroad to abuse children or escape justice.

One of the most relevant tools available to Interpol in this field is *International Child Sexual Exploitation image and video database- ICSE*. This tool provides the necessary premises for specialized investigators to identify victims by making comparisons and connections between victims, offenders, places and to share data and information with colleagues from other parts of the world.

Also, there is another tool used by Interpol's specialists- The **YELLOW NOTICE**, an identification tool, issued by Member state to help locate missing persons, especially minors, which support law enforcement agencies for preventing trafficking of human beings.

¹ <https://www.interpol.int/>.

Internally, the risk management of these offenders must be related both to the existence of clear and well-structured legislation and to the identification of the best mechanisms for cooperation between all the institutions involved- police, penitentiaries, probation- so that everyone could have a substantial contribution to preventing and combating the serious crimes or to eliminate the risk of reoffending. At the same time, it is necessary to consider and improve the mechanism for the exchange of data and information within the European country.

Romanian police have a very important role to play in this effort and has a dynamic participation in preserving a public security area in Europe, together with their action partners.

In Romania, the official channel of cooperation with the judicial authorities from the other states, both European and international, is represented by the **Centre for International Police Cooperation (C. C. P.I.)**. This unit is the central national authority in the field of international police cooperation, all activities related to the exchange of operational information for combating criminality at the international level, are carried out through this single channel of cooperation. C. C. P. I. is organized as a central directorate within the General Inspectorate of the Romanian Police and is made up of several structures, which ensures the cooperation on the fields of interest¹:

- 1 INTERPOL– National Bureaux Interpol– competence to do the police cooperation with the others bureaux from each Member States, for facilitate the exchange information at international level;
- 2 EUROPOL– Europol National Unit– assure the information exchange with EUROPOL and the participation to specific action and to information system at European level;
- 3 The Information System Schengen II- SIRENE– exchange the information regarding the alerts SIS II and take the measures in this field;
- 4 NATIONAL FOCAL POINT– cooperation with the liaison officer and internal attaché and exchange information for combating cross-border criminality through police assistance requests or other forms of cooperation.

As a conclusion, we can say that at the European Union level, there is an intense concern for combating all forms of sexual abuse of children, first of all, by improving the mechanisms for exchanging information, but also by providing effective tools to combat it. The project mentioned in the article, did not solve all the problems, but we consider that it played an important role, through the systematic analysis of the existing situation carried out with the support of all Member States, which highlighted the sensitive aspects and proposed certain solutions identified by the specialists. For the future, it is necessary to follow the evolution of the situation at European level in order to be able to observe and, at the same time, to support from the internal level, the Community's efforts to combat the risk posed by sex offenders or violent offenders.

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