

# THE FINANCIAL CRIME IN HELLAS AND ITS COMBATING BY THE HELLENIC LAW ENFORCEMENT AGENCIES. THE CONTRIBUTION OF THE EU ORGANIZATIONS OF EUROPOL AND EUROJUST

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## Abstract

As is being known Hellas is in a crucial turning point of its modern history, as the economic policies during the last three decades have lead the economy to bankruptcy threshold.

But overall crisis that Hellas faces in social and political level as a result of the economic crisis but also as a result of numbers structural problems which have been developed over the last thirty years in the country, repeatedly raise in the forefront a request – which occupies the majority of the citizens: the prosecution of financial crime.

The reasons for this are obvious and fully understood. Key financial issues for Hellas as many surveys have shown constitute bribery, corruption, tax evasion, tax opacity but also the confidence lack to the authorities. To these should be added and the demerit of Hellenic citizens for the Hellenic political leadership class.

With a financial control mechanism that cannot function adequately and effectively, the deficits to remain, unemployment is increased and the black economy to be in soaring, citizens expect that control mechanisms could lead on the revenue increased for the State, but also through effective action by the competent authorities in this section, to be discouraged citizens as far as concerns the law-breaking that demonstrate in areas related to financial activities.

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**Keywords:** Financial Crime, Financial Public Prosecutor, Economic and Finance Crime Unit (SDOE), Hellenic Police (HP), Hellenic Coast Guard (HCG), Europol, Eurojust

## Introduction

Criminal enterprises aim to generate profits. Organized crime does not occur in isolation and the state of the wider economy plays a key role in directing the activities of Organized Criminal Groups (OCGs) (PWC, 2011). The economic crisis has not led to an increase in organized crime activity but there have been notable shifts in criminal markets.

Many OCGs are flexible in their illicit business activities and capable of quickly identifying new opportunities that have arisen during the current economic crisis. For example, in response to reduced consumer spending power, counterfeiters have expanded their product ranges. In addition to the traditional counterfeit luxury products, OCGs now also counterfeit daily consumer goods such as detergents, food stuffs, cosmetic products and pharmaceuticals.

Growing demand for cheap products and services stimulates the expansion of a shadow economy in which migrant labour is exploited. Irregular migrants arriving in destination countries often have no choice but to accept exploitative conditions and working practices in order to pay off debts incurred through their journey. Exploited workers are paid

less and work harder making them attractive to unscrupulous employers who are seeking to decrease production costs.

The economic crisis may also have resulted in increased susceptibility to corruption by individuals occupying key positions in the public sector, especially in countries where large salary cuts have taken place. Reduced incomes and fewer employment opportunities in combination with low interest rates may also make spurious investment opportunities more attractive. This has the potential to enlarge the pool of potential victims for investment, advance fee, and other types of fraud.

Austerity measures in the public sector, including spending on law enforcement, may reduce prevention measures aimed at increasing safety and security due to their high costs. This will allow OCGs to operate more easily and for their activities to remain undetected for longer.

The economic crisis and resulting changes in consumer demand have led to shifts in criminal markets. Many OCGs are flexible and adaptive and have identified and exploited new opportunities during the economic crisis. Reduced consumer spending power has inspired counterfeiters to expand into new product lines.

Economic crimes and fraud in particular have emerged as more significant organized crime activities. OCGs are involved in a wide range of frauds generating very high levels of profit. Although fraud is often perceived as a victimless crime, it causes significant harm to society and losses of billions of Euros per year for all European Union (EU) Member States (MS). Fraud is largely facilitated by the availability of enhanced communication and technological tools in which individuals and companies are increasingly targeted online.

Serious and organized crime (SOC) has a significant impact on the growth of the legal economy and society as a whole. The investment of criminal proceeds and trade in illicit commodities reduces MS budgets through tax avoidance and strengthens criminal enterprises run by or associated with OCGs. It must be also mentioned that except the OCGs individuals are trying on personal basis to gain as more as they can by avoiding fulfilling their finance obligations as they are predicted in the law.

Aim of the presented study is the description of the financial crime in Hellas [Kourakis N. 2001]), the main LEAs that are activated in its combating in domestic [Korontzis T. (2012) 'b' and Korontzis T. (2012) 'e'] but also in international level and the critical approach of their operation. In this frame is essential to be developed the institution of financial public prosecutor that has been established in Hellas in the last few years, as well as the problems that faces in its operation. It is noted that in Hellas has not been established the institution of Juridical Police [Korontzis T. (2012) 'g', Korontzis T. (2011) 'b'].

Also will be presented analytically the contribution of the EU organizations of EUROPOL and EUROJUST to the Hellenic LEAs in combating of this specific phenomenon. It is noted that the above mentioned organizations have a great experience in fields like Transnational Organized Crime including financial crime [Korontzis T. (2012) 'c'].

Finally, the study will be completed with the presentation of conclusions - proposals that were exported from this.

### **The determination of financial crime in Hellas and basic characteristics of the Hellenic economic situation**

As financial crimes are determined crimes committed against the financial interests of the public and of the national economy in general or appears the characteristics of organized crime [article 3 paragraph 1 (Presidential Decree) PD 9/2011 (A' 24)] [Papandreou P. (2011)], [Zisiadis V. (2001)].

It must be noted that main characteristics of the Hellenic public administration recommend the inefficiency, the misconduct and the corruptness, (Hellas possesses the 80th place among 180 states according to the annual Report of the international organization

INTERNATIONAL TRANSPARENCY). These have led the tax evasion in amounts of 10-13 billion Euros or the 5-6% of Gross National Product (GNP) and the underground economy in amounts of 54-61 billion Euros or the 25-28% of GNP rendering Hellas champion in negative economic indicators between Organization for Economic Co-operation and Development (OECD) countries (ELIAMEP 2011).

As is has been known, Hellas from 2010 (Spring) up today is under international economic surveillance, since the Hellenic State could not and still cannot, correspond in its economic obligations (excessive public debt and deficits) [O Kosmos tou Ependyti, 2011]. The reasons for the current situation are many, have been discussed a lot and they are still discussed extensively [indicatively are mentioned certain texts as for the particular subject exists a capable bibliography and articles (Lygeros S. 2011), (Vavouras I. 2011), (Markezinis V. 2011), (Kefalogiannis M. 2010), (Giannakou M. 2010)].

Concisely can be said, that further of the general international economic crisis, the Hellenic Governments proceeded in the last thirty years in thoughtless lending, did not develop productively investments of EU capitals inflows, they did not face the structural problems of Hellenic economy, they created a enormous public sector with main characteristic the employees enormous number and the low quality in the provided services. The growth for some time was supported by the continuous lending, which was not turned in productive activities but in the consumption.

It was not also faced the tax evasion (revenues of 13 billion Euros or 5%-6% of the GNP was loosed by Hellas each year from the tax evasion) (ELIAMEP, 2011), as also the underground economy and the distortions of the Hellenic economy.

All these in combination with the corruptness that dominates in Hellas (Kostarelou E. 2011), the opacity which dominates in the processes of the majority of the transactions with the public sector, the complexity of the tax system, which make difficult each familial and professional budget, the overregulation that acts suspensively in the productive investments but also contributes in the corruptness (Mitsios I. 2011), (Mpenea M. 2012), the slow or even insufficient performance of justice, the penal immunity of politicians who led Hellas to this situation, claiming that they will bring Hellas in the «right street» [Korontzis 2013 ‘‘a’’ and ‘‘b’’], those that led this State here, have created explosive situations. Situations that have ejected the unemployment in a percentage of 29% approximately, workforce is escaping in abroad in order to find work, the shrinkage of wage and pensions etc.

Despite the forceful and painful measures for the Hellenic population, who is called to survive in difficult conditions and was led in this position by the disability of the Hellenic political leadership class in the last thirty years, the main characteristics of this crisis in Hellas remain as follows:

- A.- the dynamic of debt remains unfavorable,
- B.- the dynamic of competitiveness regarding mainly the “structural” competitiveness that is connected with the creation of friendly environment to the enterprising activity is negative,
- C.- there are existing problems in the operation of public sector, with enormous number of employees, low efficiency and excessive expenses,
- D.- problems in the structural changes promotion in closed professions, in the system of health etc
- E.- recession increase,
- F.- jobs losses (report of Hellenics Bank Governor, 2011).

The underground economy and the tax evasion, as have been mentioned before dominate, and the Hellenic competent authorities through the responsible controlling mechanisms show feeble and incompetent to face them (To Vima, 2011). The financial crime also dominates, despite the establishment of special services but also entrusting of special duties to other services in order to combat the various forms of financial criminality.

## **Hellenic Law Enforcement Agencies**

The main Law Enforcement Agencies (LEAs) that are activated in Hellas in combating the phenomenon of financial crime, are the Finance and Economic Crime Unit (SDOE), the directorate of Finance Police of Hellenic Police (HP) and the Hellenic Financial Intelligence Unit (FIU).

It is noted that the Hellenic State has established also and other institutions and authorities that are able to enforce duties in combating the financial crime, as Public Taxes Services (DOY), the Custom Offices, the Controlling Centers, the Finance Inspectors etc. Duties in combating the phenomenon of financial crime have been also assigned to the Hellenic Coast Guard (HGC).

### **Finance and Economic Crime Unit (SDOE)**

SDOE according to the legal practice that characterizes the public policies of Hellenic governments during the last thirty years (30), for instance overregulation, changed title but not and duties through four acts in the last fifteen years.

More specifically, SDOE was established by the article 4 of Law 2343/1995 (A' 211) and was under the supervision directly by the minister of Finance. It was also established a position for a Special Secretary in order to direct this service.

Flowingly, according to article 30 of Law 3296/2004 (A' 253), was established a new service under the title «Service of Special Controls» (YPEE), which was subjected directly to the minister of Economy and Finance (now ministry of Finance). With the beginning of YPEE operation automatically was stopped SDOE operation (mainly as far as concern the name of the institution) as it had been established basically according to article 4 of Law 2343/1995. In this new service Head was a Special Secretary [article 28 of Law 1558/1985 (A' 137)].

The organization of YPEE was regulated by the provisions of PD 85/2005 (A' 122). Flowingly with the article 88 & 1 of the Law 3842/2010 (A' 58), YPEE which had been established by the article 30 of Law 3296/2004 was renamed as SDOE. Substantive and formally, after fifteen years (1995-2010) from the establishment of this service and after titles changes without meaning, legally this service in question turned there from where had started.

SDOE mission according to article 2 & 1 of PD 85/2005, is «the revelation and fighting of financial crime centers, big tax evasion and smuggling, competence of ministry of Economy and Finance, the control of capitals movement, the control of goods and services distribution, as well as the possession and distribution of prohibited or under special regime types and substances, the control of the right enforcement of the provisions that are related with the national and EU subsidies, as well as provisions that are related with the protection of public property, aiming at the prevention of relative infringements and illegal actions, the willing juveniles conformity, the prosecution of responsible perpetrators, as well as the protection of the Hellenic State general financial interests, of the national economy and of the EU».

SDOE personnel according to paragraph 2.[i] of the above mentioned article, can make arrests and persons interrogations and searches of means, goods, persons, shops, deposits, residences and remaining spaces, as well as in the realization of special interrogative action, according to the special provisions which are in force each time and the provisions of Hellenic Penal Procedure Code (HPPC) for the offences that are forecasted by the relative legislation and are within its competence (article 5&c, of Law 3296/2004).

Its territorial competence is extended in all the Hellenic territory and its competencies are exercised by the Central and the Regional Services as fixed in the provisions of PD 85/2005.

It must be mentioned that recently juvenile cases were ascertained concerning leading and top ranking SDOE executives (Mpena M. 2011), (ministry of Citizen Protection, press release, 2012)

### **Hellenic Police/ Finance and Cyber Crime Unit**

By the PD 9/2011 (A´ 24) was established the Finance and Electronic Crime Unit of HP. The service in question is a self-existent Central Service, on Police Directorate level, under the supervision of the HP and is overseen and checked by its Chief. It is located at Attica prefecture and practices its competencies in all the Hellenic territory, apart from the spaces which special provisions forecast HCG competence.

Its mission is the prevention and repression of financial crimes, as well as crimes that are committed through the internet use or other means of electronic communication (article 1& 2 and article 4).

In order to implement effectively its mission [results of controls are available on [http://www.astynomia.gr/index.php?option=ozo\\_content&lang='..'&perform=view&id=24766&Itemid=1058&lang=](http://www.astynomia.gr/index.php?option=ozo_content&lang='..'&perform=view&id=24766&Itemid=1058&lang=) and [http://www.astynomia.gr/index.php?option=ozo\\_content&lang='..'&perform=view&id=12774&Itemid=863&lang=](http://www.astynomia.gr/index.php?option=ozo_content&lang='..'&perform=view&id=12774&Itemid=863&lang=)] has been hired staff with special scientific and concrete academic background in sectors like economic, financier services etc (Astynomiki Anaskopisi, 2011, 266 and Astynomiki Anaskopisi 2011, 269).

Regarding the prosecution of electronic crime is pointed out that according to article 2, paragraph c, of PD 85/2005, SDOE has also competence in the search, revelation and combating of illegal transactions, frauds and activities that are held with the use of electronic means, internet and new technologies (article 30&2c of Law 3296/2004) (Psarra M. 2011).

It is must be noted that publications of press have reported that between the two above mentioned financial services exist conflict and competition (Staurakakis M. 2011)

### **Hellenic Coast Guard**

Regarding the HCG [Korontzis T. (2011) ´´a´´], which practices its competencies in the rest of Hellenic Territory - in consequence of HP competences - in article 19 of PD 67/2011 (A´ 149) under the title «Public Security Directorate» and more specifically in the paragraph 3a, exists forecast in the combating of the financial and electronic crime [Korontzis T. (2012) ´´d´´].

In the HCG according to article 22 of the aforementioned PD has been established «Antidrug and Contraband Directorate» [results of tobacco smuggling are available on <http://www.hcg.gr/node/4046>]. The directorate in question and according to the paragraph 1 of the same article, is responsible on financial crimes affairs handling that have relation with narcotics and for the prosecution of crimes that concerns the illegally import and export of virtuous and other products. In the particular sectors the HCG have demonstrated remarkable activity (ministry of Citizen Protection/HCG, press release, 18-11-2011).

### **Hellenic Financial Intelligence Unit (FIU)**

By Law 3932/2011 which amended Law 3691/2008 the Anti-Money Laundering, Counter- Terrorist Financing Commission was renamed the «Anti-Money Laundering, Counter-Terrorist Financing and Source of Funds Investigation Authority».

The Authority is a national unit aiming at combating the legalization of proceeds from criminal activities and terrorist financing (Priniotaki M. 2008), assisting in security and sustainability of fiscal and financing stability.

Its mission, according to Law 3691/2008, as amended by Law 3932/2011, is the collection, the investigation and the analysis of suspicious transactions reports (STR's) that are forwarded to it by legal entities and natural persons, under special obligation, as well as every other information that is related to the crimes of money laundering (Gkortsa I. 2008)

and terrorist financing and the source of funds investigation.

The Authority has been restructured into three (3) individual units as follows:

a. The Financial Intelligence Unit (FIU). In addition to the President, the FIU comprises seven (7) Board Members of the Authority. At the end of each year, the FIU submits an activities report to the Institutions and Transparency Committee of the Hellenic Parliament and the Ministers of Finance, Justice, Transparency & Human Rights and citizen Protection.

b. The Financial Sanctions Unit (FSU). In addition to the President, the FSU comprises two (2) Board Members of the Authority. At the end of every year, the Unit submits an activities report to the Ministers of Foreign Affairs, Justice, Transparency & Human Rights and Citizen Protection.

c. The Source of Funds Investigation Unit (SFIU). In addition to the President, the SFIU comprises two (2) Board Members of the Authority. At the end of every year, the Unit submits an activities report to the Institutions and Transparency Committee of the Hellenic Parliament and the Ministers of Finance and Justice, Transparency & Human Rights.

The president is an acting Public Prosecutor to the Supreme Court appointed by a Decision of the Supreme Judicial Council and serves on a full –time basis.

The effectiveness of this Committee Constitution in question is judged as sufficient based on the statistics which are available on [http://www.hellenic-fiu.gr/index.php?option=com\\_content&view=article&id=54&Itemid=63&lang=en](http://www.hellenic-fiu.gr/index.php?option=com_content&view=article&id=54&Itemid=63&lang=en). But there is no available information concerning the cooperation of this UNIT and its activation with other bodies in international level.

### **Financial Public Prosecutors**

For the assistance of the ministry of Finance employees work, State determined the Financial Public Prosecutor institution, which practices concrete duties. More specifically in the articles 2 and 3 of the Law 3943/2011 (A´ 66), titled «Financial Crime Public Prosecutor» are fixed that «in the duties of Financial Crime Public Prosecutor, whose competence is extended in all the Hellenic Territory, belong the surveillance, the guidance and the coordination of the general preliminary examination employees action according to article 33&1 of the HPPP, referring also to specialized preliminary investigation employees and in particular employees of SDOE, Custom Offices, ELYT (Control Custom service) and of tax evasion control mechanisms of ministry of Finance in general, during the conducting of searches, preliminary examination or preliminary investigation on the verification of performance of all kinds .....».

Reflection creates the wording of this legal provision. In accordance with paragraph 4 of the said article the Financial Crime Public Prosecutor is informed of all the complaints and information coming to the services referred in paragraph 3 that are under its jurisdiction. But in these services are not included Financial Police of the HP as also the HCG.

This discussion is confirmed and by the wording in the explanatory statement of the law where is expressly stated that «.....the Financial Crime Public Prosecutor supervises, directs and coordinates the actions of General or of Specialized tax evasion control mechanisms employees of the ministry of Finance, Customs, SDOE, ELYT, etc.....», where also is not mentioned the HP and the HCG.

Of course in paragraph 3 are included the General and Specialized preliminary investigation employees of article 33 paragraph of the HPPC including the HP and HCG employees. Therefore is obvious that the Financial Crime Public Prosecutor regarding criminal offences and offences related to financial crimes oversees all the preliminary investigation employees from any agency as also reveals and from paragraph 5 of the same article.

Besides above it must be mentioned that in Hellas the juridical and legislative power are completely controlled by the executive power and concretely by the Government. The last

one legislates and also selects the juridical leadership in order to control the justice imposition in critical sectors that is interested about.

Recently the topicality in Hellas was occupied by resignations submission of the responsible Financial Crime Public Prosecutors, which finally recalled. The public prosecutors in question invoked interventions and indications from various factors in critical affairs/cases they handled, with regard to the perpetration of serious financial offences. This incident is indicative about the situation and the mentalities that prevail in Hellas in particular and not only sectors (Kalarrytis L. 2012) (Kalampaliki G. 2011), (Aulonitis A., 2011 and 2012)

It is marked that the Hellenic justice has asked from the Hellenic Government to take measures against the tax evasion and more specifically to be modified article 99 that concern bankruptcy (Bankrupt Code), changes in the legal regime of custodies that concerns the tax evasion (Kathimerini, 2011) etc.

### **Necessity of a Single Authority Establishment**

From the above and in particular the services multiple number in combating financial crime and thus the split but also the overlapping of competencies arises the need for a single Authority establishment in combating financial crime.

This authority which will operate on the standards of the Internal Revenue Service (IRS-USA), corpe which in addition to the taxes collection is also acting against financial crime, or of the standards of the Italian financial police, which is consisted by 78.000 employees and has 600 patrol boats and 100 aircraft. Head of this single authority will be a public prosecutor who will coordinate human resources and actions of the scattered today services in financial crime.

In particular is necessary to be consolidated the following sections or individual services:

A.-the financial departments of HP security directorates. As is being known the police officers are trained in investigating issues (seizures, evidence collection, supervision, etc.) but also in direct (and armed) intervention (body and other surveys, presentations, arrests etc.) and thus can effectively handle the affairs in the field of action. They also have great experience in matters of international police cooperation with other police international agencies (Interpol, Europol) and have access to international databases such as Schengen etc.

B.-of SDOE, since that is the main body in combating financial crime especially in the form of great tax evasion and smuggling.

C.- the directorate of Hellenic Police Cyber Crime Unit since the spread and interface through the Internet but also the use of modern electronic media is a daily phenomenon in the part that concerns financial crime.

D.-Of ELYT since this service is limited to the investigation of competence offences concerning smuggling while for other related crimes (money laundering, forgery, overpricing, using false fictitious invoices) responsible authorities are YPEE and DOY. Consequently is absolutely necessity the complete and not the piecemeal affairs management which will be achieved primarily through the direct cooperation of the relative departments.

E.-of the Economic Inspection since its competencies is the supervision and control of DOY, the management and financial control of legal persons, of the local governments (OTA), of finance employees economic property origin, of the national endowments, and therefore cooperation with other services - such as the SDOE or with the Financial Intelligence Unit - are necessary because in many cases is required parallel control in information or findings relating to the subject (e.g. fake or fictitious invoices, taxes/duties evasion, etc.), and for that reason information and cooperation must be immediate.

F.-of the Inspectorate of Health and Welfare Body since in the health area there is a great waste of public money.

Z.-of the Control Health Costs Service of Social Security Institutions.

H.- of the FIU referred in article 7 of law 3691/2008 (A' 166) on money laundering, the role of which is key on unravelling of a major series financial crimes which are also connected with other crimes, such as terrorism.

With the establishment of the single Authority can be reached direct cooperation and better coordination the services. This will help:

a) In a better information flow, management and elaboration. Today is not uncommon in a smuggling case to be engaged ELYT as far as customs part and SDOE for the part on money laundering or of false or fictitious tax information, but also the Economic Inspection on the part of official crimes committed by employees, e.g. Customs employees involved.

Many times the engaged services hold a piece of the case which if is joined with the other can result better and more directly results in all the dimensions. The most serious here is that none of the above services has statutory obligation to inform the relevant State services on other similar offences.

b) In better distribution and operation of human resources. The consolidated into sub-domains service means that can become functional allocation of human resources both in numerical terms and more importantly in quality. The establishment of action teams each time by the appropriate staffing of all the required specialties ensures speed, efficiency and elaboration of human resources required each time. It is no coincidence that in all the meetings, either in Hellas or abroad, of identical prosecuting services, countries like Germany, the Netherlands, Switzerland, and Bulgaria appear with detachments in which a Public Prosecutor is involved, a Customs Officer, a DOY employee and a Police Officer.

Furthermore SDOE is not online connected with both databases exist, i.e. Taxis (DOY) and ISIS (Customs). Namely there are two systems of the ministry of Finance which do not have access among them but also not in Schengen database, with result to be requested information via the Hellenic Police.

Head of the single Authority must be an active Public Prosecutor (Financial Crime General Public Prosecutor) assisted by regional public prosecutors. The role of the Prosecutor as Head of the single prosecuting financial crime Authority will be comprehensive as:

A.- Will deal on a daily basis with many procedural and all kinds of legal problems plaguing financial prosecution services and will provide direct and legal orders - directives.

B.-Will actively participate in the forming of criminal file of proceedings with specialized legal issues arising there, such as accusation formation, documents validity, seizures, evidence collection in general, the application of fragrant crime for which employees refer to the Prosecutor's Office, etc.

C.-Will prevent with its presence and the constant monitoring of the affairs, any symptoms of corruption that may occur to members of the prosecuting authorities.

This proposal would be a very good solution in combating finance crime in Hellas was examined by the Hellenic Government in 2010 but did not further promoted for implementation (<http://www.tovima.gr/finance/finance-news/article/?aid=310294>).

## **European Union Organizations**

### **Europa**

By EU Council Decision of 6 April 2009 [OJ L 121, 15-05-2009] which came into effect on 01.01.2010, replaced the provisions of the Convention establishing the European Police Office ("Europol Convention") [OJ C 316, 27-11-1995] Article K.3 of the Treaty on European Union [Korontzis T. (2011) 'd'].

The objective of Europol according to article 3 of the above mentioned decision is: «to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating organized crime, terrorism and other forms of serious crime».

Europol's competence according to article 4 of the same decision shall cover organized crime [document 6204/2/97 ENFOPOL 35 REV 2 issued by EU Council and Law 3975/2010 (A' 158)], terrorism and other forms of serious crime as listed in the Annex (trafficking in human beings, drugs trafficking, illegal immigration, maritime piracy, etc) affecting two or more MS in such a way as to require a common approach by the MS owing to the scale, significance and consequences of the offences.

It must be noted that in order to be simplified the information and intelligence exchange between Law Enforcement Agencies (LEAs) of EU MS has been adopted the Framework Decision 2006/960/JHA of 18 December 2006 [OJ L 386, 29-12-2006].

The main activity of Europol is to support MS in collection, analysis and distribution of information related to crime and to coordinate operations.

MS encountered specific criminal phenomenon that affects two or more EU MS may ask Europol to open similar topic (Focal Point) to support investigations in this area. Europol provides assistance on current operations through two Analytical Work Files (AWF) [Serious Organized Crime (SOC) and Counter Terrorism (CT)] where have been developed 23 themes [Focal Points (FP)] for illegal activities within the circle of competence (Korontzis T. 2012 'f')

Important activity that is developed by its staff is the participation with a support role in Joint Investigation Teams (JIT) [Korontzis T. 2012 'a'] in order to provide assistance on all activities and to exchange information with all the members of the JIT but without to participate in coercive measures.

According to article 5 Europol shall have the following principle tasks:

- a) To collect, store, process, analyze and exchange information and intelligence (operational statistics are available on <https://www.europol.europa.eu/content/page/operational-statistics-1847>).
- (b) To notify the competent authorities of the MS without delay via the national unit referred to in Article 8 of information concerning them and of any connections identified between criminal offences;
- (c) To aid investigations in the MS, in particular by forwarding all relevant information to the national units;
- (d) To ask the competent authorities of the MS concerned to initiate, conduct or coordinate investigations and to suggest the setting up of joint investigation teams in specific cases;
- (e) To provide intelligence and analytical support to MS in connection with major international events;
- (f) To prepare threat assessments, strategic analyses and general situation reports relating to its objective (Europol Review 2012) including organized crime threat assessments.

3. Europol shall have the following additional tasks:

- (a) To develop specialist knowledge of the investigative procedures of the competent authorities of the MS and to provide advice on investigations;
- (b) To provide strategic intelligence to assist and promote the efficient and effective use of the resources available at national and Union level for operational activities and the support of such activities.

Additionally, in the context of its objective under Article 3, Europol may, in accordance with the staffing and budgetary resources at its disposal and within the limits set by the Management Board, assist MS through support, advice and research in the following areas:

- (a) The training of members of their competent authorities, where appropriate in cooperation with the European Police College;
- (b) The organization and equipment of those authorities by facilitating the provision of technical support between the MS;
- (c) Crime prevention methods;
- (d) Technical and forensic methods and analysis, and investigative procedures.

5. Europol shall also act as the Central Office for combating euro counterfeiting in accordance with Council Decision 2005/511/JHA of 12 July 2005 on protecting the euro against counterfeiting, by designating Europol as the Central Office for combating euro counterfeiting (OJ L 185, 16.7.2005, p. 35) Europol may also encourage the coordination of measures carried out in order to fight euro counterfeiting by the competent authorities of the MS or in the context of JIT [Korontzis T. 2012 'a'], where appropriate in liaison with Union entities and third States bodies. Upon request, Europol may financially support investigations of euro counterfeiting.

Concerning the combating of finance crime (SOCTA 2013) relative is the Unit O3 of Europol (Criminal Finances & Technology). The Criminal Finances and Technology Unit has a dual vocation. On the one hand this consists of the delivery of expertise and scalable and sustainable solutions throughout the department on financial intelligence handling, criminal asset recovery and computer forensics. On the other hand it provides analytical and operational support to MS LEAs covering the whole range of financial and hi-tech crime phenomena and related offences, such as the sexual exploitation of children on the internet. In doing so O3 applies the Intelligence Led Policing concept to all its projects, with a strong focus on pursuing the proceeds of crime whilst effectively disabling organised criminal networks.

O3 reflects by excellence the multi-agency and multi-disciplinary character of Europol as it gathers people with very different law enforcement backgrounds, such as police, gendarmerie, customs and regulatory authorities, and utilises their diverse qualities to focus on the menace of serious and organised crime. O3 provides a unique platform for officers from 17 different MS harmoniously working together, and as such adds an entirely new dimension to the notion of international law enforcement cooperation. The Criminal Finances and Technology Unit stands for professionalism, highly specialised expertise, quality service, full cooperation with our LEAs partners and dedication to their objectives

### **Serious Organized Crime, Analytical Work File Focal Point relative to Finance Crime**

AWF Sustrans (opening date 26/11/2001): AWF Sustrans targets criminal organizations involved in money laundering activity and related offences. It does this by analyzing three main sources of information: suspicious transaction reports (STRs) filtered by law enforcement authorities, currency transaction reports mainly provided by Customs, and operational information from ongoing money laundering investigations.

The activity conducted by Europol in relation to suspicious transaction reports complies with political direction given by the Treaty of Amsterdam, Article 30(1)(b).

The European Suspicious Transaction Reporting network (€STR) is part of the money laundering project.

AWF Copy (opening date 30/01/2008): AWF Copy is concerned with intellectual property theft (IPT), also known as intellectual property rights infringement (IPRI). It tackles organized crime networks engaged in the manufacturing or trading of counterfeit goods and product piracy (except cigarettes and tobacco products), including all related financial aspects thereof.

Counterfeiting is the offence linked to industrial property rights such as trademarks, patents, designs and models. Piracy is a violation of copyrights which covers literary and artistic works such as film, musical work and software programmes.

IPT generates huge profits which are used for other areas of organized crime. In addition there is a risk to public health and safety from counterfeit medicines, foods, spare parts, etc.

AWF MTIC (opening date 2/4/2008): AWF MTIC (Missing Trader Intra-Community Fraud) aims to assist member States in identifying or dismantling organised criminal networks involved in MTIC fraud and/or tracing and confiscating the proceeds of MTIC fraud.

The essence of missing trader fraud is that through a chain of linked companies the fraudsters sell goods from one Member State to another, with no VAT being charged when the goods cross an EU border. Then at some stage these goods are traded within a Member State and VAT is charged, but this is not passed over to the fiscal authorities, and the company responsible then disappears.

AWF Smoke (opening date 25/04/2005): The purpose of AWF Smoke is to support competent authorities in preventing and combating the activities of organized crime networks engaged in the unlawful manufacturing and trafficking of cigarettes and tobacco products. Europol has the status of Observer within the Customs Co-operation Working Party (CCWP). At a strategic level the objective is to assist EU Customs in their third pillar strategy by means of consecutive Action Plans. This is done by participation in different Project Groups which are tasked by the CCWP according to the Action Plan.

At operational level the aim is to provide assistance and liaison for all OC Units in Joint Customs Operations (JCO).

Mass Marketing fraud targets individuals or companies, as opposed to vertical fraud which targets the state. The aim is to explore the feasibility of creating a platform for pan-European integrated analysis, enabling law enforcement agencies to operate in a more flexible and proactive way towards emerging serious trends in horizontal fraud.

O5 is the Unit that deals with Forgery of Money. Within the unit are currently four Focal Points (FP), formerly known as Analytical Work Files (AWFs):

Cyborg - Cyber crime: Preventing or combating the forms of criminality within Europol's mandate associated with internet and ICT (information and Communication Technology) related Organized Crime. More specifically the focus will be on the crimes defined in Articles 2-8 of the Cyber Convention.

Soya - currency (euro) counterfeiting: Targeting criminal groups, involved in the production and uttering of counterfeit currency, specifically the Euro currency.

Terminal other means payment of fraud: Targeting networks consisting of individuals involved in fraudulent activities related to payment card fraud. From Europol's annual review issued on 2013 reveals that the percentage of operations which had its support in Hellas was 2.0, percentage which certainly can be improved (Europol Review 2013, p. 34) as there are MS that have a percentage higher than 10.0.

From the same review reveals that there was not any support to the Hellenic competent authorities in combating finance crime as they had not requested such a thing and also they had not been involved in operations occupied two or EU MS.

Thus there are clearly margins for improvement of the expertise provided by the European Agency in combating financial crime as Hellas has not exploited Europol's capabilities and knowhow provided by this organization. Moreover, Hellas is a member of the south eastern hub of criminal activity in the EU with gravity centre this along with Romania and Bulgaria (Europol Review 2013, p. 96),

## **Eurojust**

Eurojust was established by the EU Council Decision of 28 February 2002 «setting Eurojust with a view to reinforcing the fight against serious crime» [2002/187/JHA, L 63/27].

According to article 3 of the above mentioned decision the objectives of Europol are:

- (a) To stimulate and improve the coordination, between the competent authorities of the MS, of investigations and prosecutions in the MS, taking into account any request emanating from a competent authority of a Member State and any information provided by anybody competent by virtue of provisions adopted within the framework of the Treaties;
- (b) To improve cooperation between the competent authorities of the MS, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests;

(c) To support otherwise the competent authorities of the MS in order to render their investigations and prosecutions more effective.

2. In accordance with the rules laid down by this Decision and at the request of a Member State's competent authority, Eurojust may also assist investigations and prosecutions concerning only that Member State and a non-Member State where an agreement establishing cooperation pursuant to Article 27(3) has been concluded with the said State or where in a specific case there is an essential interest in providing such assistance.

3. In accordance with the rules laid down by this Decision and at the request either of a Member State's competent authority or of the Commission, Eurojust may also assist investigations and prosecutions concerning only that Member State and the community.

Eurojust competences according to article 4 are:

1. The general competence of Eurojust shall cover:

(a) The types of crime and the offences in respect of which Europol is at all times competent to act pursuant to Article 2 of the Europol Convention of 26 July 1995;

(b) The following types of crime:

i) Computer crime,

ii) Fraud and corruption and any criminal offence affecting the European Community's financial interests,

iii) The laundering of the proceeds of crime,

iv) Environmental crime,

v) Participation in a criminal organization within the meaning of Council Joint Action 98/733/JHA of 21 December 1998 on making it a criminal offence to participate in a criminal organization in the Member States of the European Union (OJ L 351, 29-12-1998, p.1);

(c) Other offences committed together with the types of crime and the offences referred to in points (a) and (b).

Concerning the crimes categories of which combating is a priority in Eurojust cases relatives are the tables 5 and 6 of the Annual Report 2011 of Eurojust in the period 2010-2011 AVILABLE

ON  
<http://eurojust.europa.eu/doclibrary/corporate/eurojust%20Annual%20Reports/Annual%20Report%202011/Annual-Report-2011-EN.pdf> p.p. 73-74.

2. For types of offences other than those referred to in paragraph 1, Eurojust may in addition, in accordance with its objectives, assist in investigations and prosecutions at the request of a competent authority of a Member State.

1. In order to accomplish its objectives according to article 5 Eurojust shall fulfill its tasks:

(a) Through one or more of the national members concerned in accordance with Article 6, or

(b) as a College in accordance with Article 7:

(i) When so requested by one or more of the national members concerned by a case dealt with by Eurojust or

(ii) When the case involves investigations or prosecutions which have repercussions at Union level or which might affect MS other than those directly concerned, or

(iii) When a general question relating to the achievement of its objectives is involved, or

iv) When otherwise provided for in this Decision [Eurojust activities (Annual Report of 2011) are available on 2011

<http://eurojust.europa.eu/doclibrary/corporate/eurojust%20Annual%20Reports/Annual%20Report%202011/Annual-Report-2011-EN.pdf>].

Also when it fulfills its tasks, Eurojust shall indicate whether it is acting through one or more of the national members within the meaning of Article 6 or as a College within the meaning of Article 7.

Also can request the establishment of JIT [Korontzis T. 2012 'a'), as also its members to participate in this. Its role in the establishment and successful activation of JIT is crucial. It is provided the possibility as reveals from its institutional framework through its

national Members but also as collegiate body to invite the competent national authorities to establish JIT where considers is necessary (article 4 paragraph 1 Law 3663/2008). At JIT Eurojust provides administrative support as the coordination meetings held at its premises in The Hague, Netherlands.

MS have the ability to nominate their national representatives to participate in JIT and in such a case would not represent Eurojust but the member state from which it comes. Eurojust has the possibility to participate as a collective body to JIT nominating in this case the member who will represent something which is provided in article 9& 3 of 2002/187/JHA of 28 February 2002.

It must be noted that concerning JIT Eurojust after signing cooperation memorandum with the European anti-fraud Office (OLAF) concerning fraud or other offences affecting the financial interests of the EU, when one of the two organizations participate in JIT for such offences shall inform the other institution and propose to the MS recommended JIT to invite respectively and the other organization [Eurojust 2013, ‘‘a’’].

Eurojust relations with Europol are regulated on the basis of the memorandum of cooperation signed between them [Eurojust 2013, ‘‘b’’].

In general and as far as concerns Hellas activities regarding participation in cases handled by Eurojust, study of statistics from period 2010-2011 (there are not provided concrete evidence In combating finance crimes) (<http://eurojust.europa.eu/doclibrary/corporate/eurojust%20Annual%20Reports/Annual%20Report%202011/Annual-Report-2011-EL.pdf>) reveals the following:

A.-In Figure 2 p. 70 is depicted the number of bilateral and multilateral cases entered by each national bureau in 2011 and in which the Hellenic presence is satisfactory.

B.-In Figure 7 p. 75 is depicted how many times each MS requested the assistance of Eurojust in 2010 and 2011 and in which the Hellenic presence is satisfactory.

C.-In Figure 8 p. 76 is depicted how many times requested the assistance of the authorities in each Member State through Eurojust in 2010 and 2011 and in which the Hellenic presence is satisfactory.

D.-In Figure 10 p. 78 is depicted the number of cases for which was necessary a coordinating meeting on request for assistance per Member State or third country in 2010 and 2011 and in which the Hellenic presence is considered as low.

E.-In Figure 11 p. 79 is depicted the number of coordination meetings during 2010 and 2011 involving authorities at all MS in cases requiring coordination assistance after request that was accepted and in which the Hellenic presence is satisfactory.

A survey of the records of that organization in collaboration with the National Bureau of Hellas at Eurojust in order to be recorded the participation of Hellenic LEAs as also and of judicial authorities in specific activities as JIT, coordination committees etc refereed always in combating financial criminality revealed that the activities of the Hellenic LEAs and the Hellenic judicial authorities in terms in combating financial crime is almost nonexistent.

From the above it is concluded that there are capabilities for improvement on the part of Hellas concerning the elaboration of know-how provided by the European Agency in combating criminality at EU level.

## Conclusion

From the juxtaposition of the above legal provisions arise the following interesting points:

There are three major administrative formations (SDOE, HP, HCG) in combating financial crime and cybercrime and the FIU in combating money laundering and financing of terrorism. The first one (SDOE) has jurisdiction throughout the Hellenic territory and the remaining two (HP, HCG) in specific territorial areas as are determined by the relevant legal provisions. At the same time there is also FIU. Self-explanatory is created the well-known

phenomenon that characterizes the problematic Hellenic public administration, competencies duplication.

In periods that the Hellenic economy lacks resources, creates questions what kind of needs led to the establishment of a new agency to combat/prosecute the financial criminality. Need which means recruitment of new qualified staff and supplies appropriate equipment in order the specialised staff to exercise effectively the competencies assigned them by the State. And if there were these resources why they did not allocated to staff SDOE services?

As reveals from the legislation, the control mechanisms on combating financial crime exist and are sufficient. What every time is looking for is their effectiveness.

Establishment and merge all of the bodies and services in a single service in the form of a single Authority as mentioned earlier, staffed with trained and specialized professionals under the supervision and guidance of the competent financial public prosecutor, could lead to best practices in combating financial crime.

The argument that the establishment of new services with related prosecuted work subjected in different bodies and ministries leads through the competition to a fullest combating of finance criminality is not tenable. Besides the fact that there is no evidence to confirm this claim and the confusion caused to citizens by the existence of many joint jurisdiction services Hellas has many control mechanisms but their results in combating finance criminality cannot be considered as satisfactory.

In addition the report of the task force for Hellas (2011) mentions the need for institutional reform in tax administration, redeployment of staff with target debts collection and checks realization as also the reorganization of all the central functions and services of tax administration.

Also is required the enlargement of the competent authorities cooperation with other similar services in abroad in combating international finance criminality crime but also with the respective European organizations, cooperation which cannot be characterized as satisfactory.

It remains to be evaluated the activation of the controlled mechanisms in combating finance crime over the coming years – as a right staff public policy planning requires –and under adverse financial conditions for the citizens and Hellas and subsequently in the case that the desired results do not come to be redeveloped the area in combating financial crime in the direction mentioned above which may be the best holistic approach for achieving best results.

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