

Transnational criminality in Europe and the danger of its movement from East to West¹

Abstract: *Everyday criminality is a real threat for contemporary society and its development inclines to be extended in the most sensitive fields of activity. The paper aims to provide the criminal phenomenon in Europe and its movement from the East to the West part of the continent. It also outlines the special features of transnational criminality in Europe in one of the most important areas of research, which is based on the issue of criminal groups, methods of criminal operation, investigation process and law enforcement skills of control. Stringent research was conducted in this matter taking into consideration the standards provided by European criminal law and the national strategies of fighting serious crime having a transnational feature. At the same time, a comparative approach between East and West criminality will be emphasized with a special focus on the phenomenon in Eastern Europe. As methods of research, comparative, synthetic and analytic methods were used.*

Keywords: *transnational criminality, East Europe, West Europe, criminal groups, organized crime*

General Background

The East – West criminality in Europe was very much a curiosity until the 1990s. Criminologists have devoted ample research to the matter of analyzing the phenomenon of transnational criminality both from theoretical and practical points of view. At present, in the whole of Europe it is recognized

¹ The present paper was carried out during the Postdoctoral Research Grant conducted by myself at the “Max Planck” Institute of Freiburg in Germany in October/November 2009. The short version of this paper was presented in the International Scholastic Conference „Law as a unifying factor of Europe – Jurisprudence and practice” held in Bratislava, Slovakia in October 2010.

as being one of the most dangerous threats, which presents a particular interest for specialists because of its expansion and diversification and also because of the fact that it has become organized.

Usually, the penalists are considering a profound investigation upon the criminal phenomenon in a comparative field is required due to the major transformation of the European societies that has happened in the political and economic fields during the 20th century.

Basically, I am looking for a better understanding of the criminal phenomenon through finding factors, which increase the development of the cross-border criminality. Globalization of the economy, the abolition of border controls between states in the Schengen area or the commercial ties between Western and Eastern Europe after 1989,² combined with persisting national differences and diversification of home legislation in criminal matters are only certain factors, which facilitate the development of the phenomenon and increase the opportunities for illicit cross-border transactions. On the other hand, performing an evaluation of prevailing politics is necessary in order to adopt a new perspective, which comprises the current situation in Europe.

The topic on the legal institution of transnational criminality in Europe is devoted to a comparative research taking into account its particular feature in Eastern Europe and the comparison between Eastern and Western Europe. In other words, it can be observed how many differences there are between the East of Europe and the West part of the continent in the legislative field and also in the matter of fact including the trends in various areas of illicit activities with a special focus on the phenomenon transnationally.

As I will highlight in this paper, there is a serious threat, which consists in developing the criminal phenomenon in the Eastern Europe and its movement from the East to the West part of the continent. This aspect involves specialists in the matter of fact and on the topic of several issues such as organized criminal groups, methods of operation, special used technologies and so on.

Particular Features of the Transnational Criminality in Europe

In carrying out a special feature of the phenomenon of criminality in Europe, two ways of research arise from a geographical area point of view, which divides Europe into two parts: East and West, each of them having a particular interest in this field. One of these concerns the particularity of the transnational crime in Eastern Europe and another one focuses on the

² Sabrina Adamoli, "Organized Crime and Money Laundering Trends and Countermeasures: A Comparison between Western and Eastern Europe," in: *Cross-border Crime in a Changing Europe*, eds. Petrus C. van Duyne, V. Ruggiero, M. Schinost, W. Valkenburg, 209 (Tilburg: Tilburg University, 2000).

Western European type of transnational criminality. However, certain legal elements are similar in both cases and a number of circumstances encourage the development of the organized crime. As a consequence, the criminal organizations are increasing and their action plan tends to be more dynamic and ample. Despite the large volume of cases of the serious crimes committed in Europe, in the Eastern European framework the criminal organizations pose an alarming threat because of the intense expansion and the high level of illicit proceeds they produce.

Various forms of serious crime having impact upon the European societies arise an interest for criminologists in their research on transnational criminality in Europe. The most frequent cases refer to the diverse types of trafficking, such as trafficking in human beings, drugs trafficking, trafficking in weapons, stolen car trafficking, artefacts trafficking, to which other forms of serious transnational crimes are added (penetrating economy, counterfeiting, money laundering, bribery, tax evasion and so on), most of them being committed with the public officials' agreement while they are involved in this kind of illegal activities. Frequently, doctrine speaks about the nexus between the criminal groups' operations and the public officers³ implying corruption and funds embezzlement. Moreover, the more organised the transnational criminal groups are carrying out the most sensitive activity sectors at the regional level, the bigger the threat is. The supranational character of these cases is recognized by the national authorities, even if there is no solution in order to prevent the real situation.

Thus, when studying criminal behaviour of transnational groups, many forms of criminality involving neighbouring countries can be noticed and there already are links between them having consequences upon the whole criminal activity in Europe, although the organized groups do not work together in order to commit transnational serious crimes.

On the other hand, factually criminals belonging to different criminal groups join together for exploiting this purpose which actually occurs especially in the East of Europe, where several cases of serious crimes are committed involving the supranational perpetrators' networks. This kind of networks is either concerned with the participants who normally are neighbour citizens committing transnational criminal activity or it is concerned with preliminary acts in the neighbouring territory, but the crimes are committed in another country. In other words, the crime system which crosses the jurisdiction and involves the social relations of two or more countries is also called the *multinational crime system*.⁴ A typical case of nations involved in a

³ Jan Van Dijk, *The World of Crime. Breaking the silence on problems of security, justice and development across the world* (Los Angeles: Sage, 2008), 146.

⁴ John M. Martin and Anne T. Romano, *Multinational Crime. Terrorism, Espionage, Drug & Arm Trafficking* (London: Sage Publications, 1992), 14.

multinational crime system is related to the drugs trafficking and it came from the Southeast Asia in the mid of 1980s.⁵ One of the most significant features of the multinational crime system is its own way of organization implying division of labour, leadership, rules or sanctions. Usually, it is important for researchers to distinguish between a criminal act committed by an organized criminal group through its own strategy or skills, which is viewed as a domestic offence and another criminal act committed by a joint criminal team, a mixed one involving many other criminal groups. Despite the general feature of both cases presented above, the final resolution is different and, moreover, it produces effects regarding the research as it will be argued below.

On the other hand, new routes from the Eastern European countries via Central to the Western part of the continent and also the abolition of the control of many borders in the Schengen area are important factors that must be taken into account in carrying out the present paper. Any pattern of trafficking and other forms of transnational criminality in Europe have considerably changed the movement of people within Europe and also the recent development of the phenomenon within the continent.⁶

Eastern European Non-Member States' Style of Approach

First of all, continuing on the matter of the geographical area, the links of committing serious crimes are of special interest in developing and processing the action plans of the criminal groups. Nevertheless, in accordance with their behaviour, known as a "rule" in this field, and also noticed in the Eastern Europe, the Russian style⁷ of the criminal groups is relevant more than ever at the moment.

Within the nexus state – civil society – everyday life, the resolute struggle against organized crime is not sufficient to ensure the success of the democratic and market changes.⁸ Several rules of behaviour which conduct the Russian life of criminal groups are similar to those in the prison setting.⁹

Looking for a particular pattern of behaviour in the Russian style of tackling the issue, I am looking for an explanation for the ubiquity of that model at the institutional level of the former Soviet and post-Soviet societies. As a matter of fact, the doctrine makes a remark upon the absentee state, the

⁵ Ibid., 15.

⁶ Kauko Aromaa, *Trends in Criminality*, in: *Crime and Criminal Justice in Europe*, 14 (Strasbourg: Council of Europe Publishing Cedex, 2000).

⁷ Anton Oleinik, *Organized crime, prison and post-Soviet societies* (Cornwall: Ashgate, 2003), 8.

⁸ Ibid., 9.

⁹ Yuli Dubov, *Bolshaja pajka* (Moscow: Vagrius, 1999), 38.

state separated from society and also responsible for its serious problems such as criminality and its high level of development which occurs in everyday life and which does not have anything in common with citizens or their habitual life.

From the point of view of the perspective, the state has transformed such kind of relationship among nationals which has consequences in the field of criminality, in particular in the transnational one. Unfortunately, at the moment, this perspective should not be excluded, and we should analyse of the current situation in Russia that creates the phenomenon which it can be observed outside its borders. I am referring to this special element because of the institutional approach which delineates the methodology of researching the phenomenon and other institutional approaches that rouse an interest for penalists while they come to research a new version of their norm.¹⁰ Moreover, the Russian doctrine has been involved in finding more efficient theories and practical solutions or sides for labelling the criminality phenomenon having a transnational valence. Relating the state and the civil society, the assumption of responsibility by the law enforcement in the matter of fighting against criminality, particularly the transnational one, is required.

Moreover, the links created by the organized criminal groups, exceeding Russian borders and going to the nearest frontier of the European Union, show us how much they are involved in finding new advanced methods to violate the legal provisions into force and have an international recognition by the other relevant groups. The criminal activity procedure is viewed by the European doctrine as one which manage to “work as crime or crime as work”.¹¹ Actually, the specific element of these groups is their managing to coordinate their activity according to their own rules or laws adopted by themselves and also recognized even outside of the organization.

Taking into consideration the provisions stipulated in the Trafficking in Persons Report¹² of 2009, Russia is a source, transit and destination country for women, men and children trafficked in order for traffickers to commit both commercial sexual exploitation and forced labour. The women from Far East Russia are trafficked to the Arabian countries and Turkey, South Korea and China for purposes of sexual exploitations and forced labour as well as for other erotic services that the traffickers require from them. Another part of Russian women are trafficked to the West part of the European continent to countries such as Germany, Italy, France, Spain or the United Kingdom for

¹⁰ Anton Oleinik, *Institucional` naja ekonomika* (Moscow: Infra M, 2000), 11.

¹¹ Vincenzo Ruggiero, *Organized and Corporate Crime in Europe* (Brookfield: Dartmouth Aldershot, 1996), 71-84.

¹² See: <http://www.docstoc.com/docs/7400493/Trafficking-of-Humans-Report-2009>, 246-248.

the same purposes. Most of the men are trafficked in the Far East for forced labour including work in the construction industry. As destination countries they are trafficked also to the Western European countries. The Russian style of transnational criminality in Europe influences, in a negative manner, many other countries, the focus of the phenomenon being upon the neighbouring area.

Statistics show us how many cases of these offences are discovered by the national law enforcement. The Report offers information in the matter of fact that, under Article 127 of the Russian Criminal Code,¹³ the Police Investigation Department investigated in 2007 a number of 139 cases of trafficking and 111 trafficking cases in 2008, 95 for sexual trafficking and 16 for forced labour. In 2007, about 46 traffickers were prosecuted, but only 9 were prosecuted in 2008. However, it is very difficult to have real data both for prosecutions and for convictions because of the authorities which do not collect and maintain such statistics.

As far as these criminal groups are engaged in any kinds of illegal activity, it is natural that the authorities have to make huge efforts in order to reform the legal framework favourable to gating and accelerating fight against transnational criminality, as it can be observed as a real threat towards the European values, including the financial interests of the European Communities, as a result of these activities, fact which is not desirable, of course. Taking into account these issues, I appreciate that the control mechanisms upon the transnational organized criminality should be rethought by the legislator and other more efficient strategies should be adopted in this respect.

Many times, as the practice shows, there were situations in which the criminals' behaviour has to be one step ahead of law enforcement. Moreover, the penalists have drawn a parallel between the efforts made by the law enforcement and the instruments used by the organized criminal groups. In this area, the technologies of the transnational criminal groups appear as an opportunity for those who would like to exploit the benefit of criminal conduct.¹⁴

At the same time, referring to fighting criminality, a criminologists team joined within the International Preparatory Colloquium on the topic of the *Expanding forms of preparatory acts and participation* held in Spain in 2007, had stated a theoretical formulation. One of the most important theories was

¹³ The Russian Criminal Code provides punishments up to five years imprisonment for this kind of offences and up to 15 years imprisonment for aggravated circumstances.

¹⁴ Antonio Vitorino, "Strategies of the EU and the US in Combating Transnational Organized Crime," in: *Strategies of the EU and the US in Combating Transnational Organized crime*, eds. Brice De Ruyver, Gert Vermeulen and Tom Vander Beken, 15 (Antwerpen-Apeldoorn: Maklu, 2002).

stated by the general rapporteur who emphasized that “we do not need more strategies or newer mechanisms, but we need more information and power including a financial one, in order to control and prevent the phenomenon.”

Not so far away from the Russian “style” of approaching the issue of transnational criminality, another country situated near the Russian Federation area is my target of research in the present paper. It is the case of the Republic of Moldova, which is geographically located at the Eastern European Union border having Romania as its Western neighbour. Actually, there is no particular feature of that country because of its past integration in the former Soviet Union until 1991, while the R. of Moldova enjoyed independence. Despite its independent status, at the moment, so many kinds of criminal activities, including the transnational ones, are committed involving the perpetrators from Ukraine and Romania. For the present research, these kinds of transnational criminal acts committed in the Republic of Moldova rouse a special interest in order to highlight its particular feature in opposition to the context. The home specialists in combating and preventing such forms of transnational criminality close to the geographic area of the Republic of Moldova have made huge efforts in order to carry out an efficient legal framework for fighting this scourge.

As long as the drugs trafficking is concerned, a high level of the involvement of law enforcements is being observed in order to control the phenomenon which is materialized in adopting the home legislation in accordance with the international one by respecting human rights and human security and also by playing an active role in the regional co-operation in criminal matters. At the same time, Moldova is a part of the European instruments of fighting against the transnational criminal phenomenon having consequences upon this country’s goal to join the European Union in the future.

One of the most important implications of that country consists in its statute as a member of the SECI Centre¹⁵ in Bucharest, which is an operational regional organization bringing together police and customs authorities from 13 member countries in Southeast Europe, including non-European Member States. The process of adapting the home legislation of the Republic of Moldova to the International one depends not only on the national legislative system, but, gradually, on the Moldova’s integration into the International community. The objectives of diminishing the drugs market can be approached only in an institutionalized frame or an inter-ministers relation too. The Centre for Combating Economic Crimes and Corruption¹⁶

¹⁵ See: <http://www.secicenter.org>

¹⁶ The Center for Combating Economic Crimes and Corruption is a home organism specialized in combating economical and financial serious crimes and preventing corruption too. Its legal framework includes the Constitution of the Republic of Moldova, the Law on the CCECC no. 1104-XV of 6 June 2002 published in the

of the Republic of Moldova is engaged in a permanent and progressive effort in order to redress economically and reduce criminality which is a real threat for the contemporary society. Moreover, in the home legislation,¹⁷ adopted by Moldova's Parliament, the transnational side of the serious crimes which are committed across its frontiers has been taken into consideration because of its concept of cross-border feature which is being used, without a clear definition.¹⁸

The Moldovan doctrine of criminal matters and transnational criminality has been involved in defining the cross-border phenomenon of the organized crime, within a general frame at the European level. Despite its "generalization", it could be noted that the transnational phenomenon of criminality underlines the meaning of threats for the states situated close to its geographical area of whose manifestation scene is based on the concept of various nations.¹⁹ On the other hand, the doctrine in the Southeast Europe has highlighted that these countries are affected due to the freedom and democracy established in their sovereign territories because of the globalization and expansion of the transnational criminality in this area.²⁰

Official Journal of the R. of Moldova no. 91-94/668 of 27 June 2002 and other normative acts such as the International treaties to which the Republic of Moldova is a part. The Center's responsibilities consist in preventing, analyzing and curbing contraventions, financial and fiscal offences, combating corruption, preventing and curbing money laundering and terrorism financing, anticorruption expertise of drafts of legal and normative regarding their correspondence to the state policy of preventing and combating corruption. For more information, see <http://www.cceec.md>

¹⁷ The Law on preventing and combating money laundering and financing of terrorism no. 190-XVI on 26 June 2007, published in the Official Journal of the R. of Moldova no. 141-145/597 of 7 November 2007; The Law on combating corruption and protectionism no. 900 of 27 June 1996, published in the Official Journal of the R. of Moldova no. 56 of 22 August 2007. See: http://en.cceec.md/legislation_RM

¹⁸ The National Strategy for fighting against organized crime, adopted by Decision of the Ministerial Council no. 726 of 7 November 2002; the Strategic Implementation Planning (SIP) Framework – An Implementation Tool to Prioritize Your Mutual Evaluation Report Recommendation. See: <http://en.cceec.md/Dezvoltar-eastrategica>

¹⁹ Vlado Ivanov, "Possibilities of border security in the fight against trans-border criminality," in: *Prävention und Bekämpfung der Transnationalen Verbrechen. Theoretische und Praktische Probleme* (Menschenhandel, Terrorismus, Geldwäsche, der Illegale Drogen – und Waffenhandel), Sammelwerk der internationalen wissenschaftlichen und praktischen Konferenz, 38 (Chisinau, 2005).

²⁰ *Ibid.*, 38.

Particularities of the Cases of Bulgaria and Romania

In spite of the fact that the Eastern European doctrine²¹ states that it is the key front-line transit region into the European Union of the illegal products or services, I have to notice that for a long time this kind of serious offences I am referring to have increased into this area, and their organized groups have perpetrated the internal markets managing primary links, but developing gradually. Excepting the Western Balkan Region, which is closest to the Western part of the continent, it is observed that the preferred forms of criminality are also inclined to be trafficking, both small and heavy arms.

Thus, remaining in the geographical territory of the Southeast Europe, but entering into the European Union area of interest, I have to notice the case of Bulgaria and Romania arise a particular pattern from this point of view, as it will be pointed out further. In spite of the general configuration of the kind of criminal activity which is committed in these countries, from a point of view, the Bulgarian style of criminal groups are closer to the Russian Federation style than the Western and Central European ones. However, the transnational criminality in Bulgaria is based on the “trans-border” criminality concept whose activities are controlled both by the EU provisions in criminal matters including the judicial co-operation in criminal matters and also by the national legislation, which is adapted to the European one.

As a matter of fact, there are many kinds of transnational criminal acts committed by the Bulgarian organized criminal groups, such as: drugs trafficking, including toxic and psychotropic materials; smuggling of excised goods, weapon and radioactive materials; smuggling of cultural-historical valuables; illegal immigration across-border; trafficking in human beings for the purpose of sexual exploitation; money laundering via cross-border financial operations and other transactions; money counterfeiting and other official documents.

One of the major problems that the law enforcement faces in Bulgaria is to examine the criminal acts as more than elements in a global market of criminal groups or societies and networks. However, for the present study the foreign activity represents a high interest. Not only from the structural point of view, these criminal acts take place in many particular countries, regions or firms in the international framework, using accessible communications in order to conduct their activity. In the area of issue it is usually stated that certain enterprises, that produce chemical radioactive materials for example, are not interested in the fact that, by using their technology and products,

²¹ Misha Glenn, “Migration Policies of the Western European Government and the Fight Against Organized Crime in SEE,” in: *Fighting Organized Crime in Southeast Europe*, ed. Ekavi Athanassopoulou, 34 (London and New York: Routledge Taylor and Francis Group, 2005).

someone could produce weapons for mass destruction in another part of the world.²² This point of view should be taken into account by the national authorities and also by the criminology in order to examine all these acts and the consequences they produce and also to manage the illegal transnational activity through collaboration with other national law enforcements.

There are so many questions which pose interest regarding the case of Bulgaria and its type of transnational criminality. How much Bulgaria is a criminality producer country is shown by the European reports on the criminality issue of the Member States.²³ Concerned its transitory character, taking into consideration the legal sources, it is defined as “a combination of border trespasses of Bulgaria or to several state border of other countries on the road to the final aim-country of the movement.”²⁴

Regarding the Trafficking in Persons Report,²⁵ published in June 2009, it is emphasized that “Bulgaria is a source, transit, and, to a lesser extent, a destination country for men, women and children from Ukraine, Moldova and Romania trafficked to and through Bulgaria to Germany, Belgium, France, Italy, Spain, Austria, Norway, the Czech Republic, Poland, Greece, Turkey and Macedonia for the purposes of commercial sexual exploitation and forced labour”. The same Report continues that “Ethnic Roma women and children remain highly vulnerable to trafficking. Children are trafficked within Bulgaria

²² Ivanov, *Possibilities of border security in the fight against trans-border criminality*, 39.

²³ Report against illegal trafficking of migrates by land, sea and air; Report for prevention, opposition and punishment on the human trafficking, especially women and children from 2000, published in the Official Journal issue 42/2001; See: <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&language=EN&reference=A6-2007-0323>; Trafficking in Persons Report, Office to Monitor and Combat Trafficking in Persons, June 2002, see: www.state.gov/g/tip/rls/tiprpt/2002/10678.htm

²⁴ Ivanov, *Possibilities of border security in the fight against trans-border criminality*, 40.

²⁵ See: <http://www.docstoc.com/docs/7400493/Trafficking-of-Humans-Report-2009>, 89-90. This Report and subsequent updates are also available at: www.state.gov/g/tip. The Report offers us certain useful statistical information on penalties between one and 15 years' imprisonment pronounced in accordance with Article 159 of the Bulgarian Criminal Code. For example, in 2007, Police Investigation Department conducted 179 offences of sexual trafficking and 22 labor trafficking investigations, but in 2008, the same Department investigated 187 offences of sexual trafficking and 25 labor trafficking causes. At the same time, in 2007, a number of 78 people were prosecuted for committing sexual trafficking and forced labor, in compared with 87 prosecuted in 2008 for both offences. And finally, in 2007 a 71 perpetrators for sexual trafficking offences were convicted and two for labor trafficking, but in 2008, 66 perpetrators were convicted for sexual trafficking offences and three for labor trafficking.

and to Greece and the United Kingdom for the purposes of forced begging and forced petty theft.”

Statistically speaking, 15% of identified trafficking victims in Bulgaria are children. Why? Because of so many domestic factors such as the undeveloped standard of living. Bulgarian women and men are trafficked internally, primarily to resort areas around the Black Sea Coast and in border towns with Greece for the purposes of commercial sexual exploitation and forced labour, as I have already detailed above.

It is appreciated that the Bulgarian authorities have made enough efforts in order to diminish as much as possible both the home and transnational criminality by issuing several standards including strategies for fighting serious crimes, in particular the organized ones having a transnational feature. It is reproached Bulgaria with unprosecuted public authorities who are part in trafficking over the last years which is still a serious drawback that the national officials should take into account when adopting new provisions. However, as a positive aspect of fighting against serious crimes in Bulgaria, the home authorities have devoted their activity to protecting children. In this way, the government has increased available assistance to children victims of trafficking by establishing centres of rehabilitation and psychological assistance.²⁶

The same particular features as the ones presented in the latter case, Romania has faced most of the problems mentioned above. Despite its joining the European Union, which took place on 1 January 2007, this country has made efforts in order to adapt the domestic legislation to the European one, as a result of the European authorities' requests. However, even if the Bucharest authorities have been involved in diminishing and controlling the various forms of serious crimes, such as organized crime and corruption, as a matter of fact there are many unexplored fields which are still awaiting for investigation.

Analysing the causes that produce this phenomenon, the specialists usually consider the most frequent kind of factors as being both economic and political ones. Indeed, there is a unanimous opinion on the economic causes which produce and develop the transnational criminality in the Eastern Europe including Romania. In the period of transition, the national authorities have had to face many drawbacks in this field. Romania is also a source, transit and destination country for trafficking offences in the Southeast Europe having the external border of the European Union. Victims are both women and children, who are exploited for sexual purposes and for forced labour. Romanians prefer to go abroad in the Western countries, such as Italy,²⁷ Spain, Germany, the Netherlands and the United Kingdom.

²⁶ Ivanov, *Possibilities of border security in the fight against trans-border criminality*, 90.

²⁷ Statistically speaking, in 2007, 1 million people were registered at the Ministry of Labor, Family and Social Protection of Bucharest, who have worked legal in Italy,

Since its joining the European Union, the Romanian citizens have the possibility to enjoy one of the European liberties – *the free movement of people* and also the free movement of labour into the EU area. In spite of these fundamental rights which offer them the opportunity not only to travel, but much more, including the right of searching a job, right of residence, the family right, many people prefer not to travel abroad in order to find a legal job, but most of them have chosen an illegal route to penetrate the labour market, in particular in the field of agriculture, construction and services. Another purpose for their illegal activity is to develop a sexual “industry”. Traffickers prefer women and children in order for them to commit petty thefts. Moreover, in the last period of time, traffickers are involved in trafficking children as young as three months old in the United Kingdom. They are trained in street crimes and most of the children commit offences with their parents’ agreement. Moreover, the traffickers use illegal immigration documents and employment records in order to obtain fraudulent benefit claims. This procedure is the newest method used by the Romanian perpetrators abroad. In this matter, Mr. Anthony Steen MP, Chairman of the all-party parliamentary group on trafficking of women and children stated that: “This is an appalling scandal of desperately poor people being trafficked here to siphon money from the benefit system. The current checks are totally inadequate and there need to be an EU-wide response. HM Revenue and Customs and the Development for Work and Pensions need to get a grip”.²⁸

Statistically speaking, in 2007 the Romanian authorities investigated a number of 232 cases of serious crimes and over 494 new cases in 2008. The judicial bodies prosecuted 398 cases of this kind of offences in 2007 and there were 329 cases prosecuted in 2008. Romania convicted 188 perpetrators in 2007 and 125 perpetrators in 2008.²⁹

Basically, the East European doctrine³⁰ highlights that the illegal immigration is connected to the criminological phenomena such as trafficking in human beings, organs trafficking, sexual exploitation which depends on both economic and social factors. In the first kind of factors meanness, unemployment, communist feeling, people’s division into poor and rich

and, that ministry expected that half million are working without a work permit in that country.

²⁸ Jon Ungeod-Thomas, “Gangs import children for benefit fraud,” in: *Sunday Times/ Timesonline* on 23 August 2009. See: <http://www.timesonline.co.uk/tol/news/uk/crime/article6806493.ece>

²⁹ Taking into account the data published in the same Report, in 2008, 48 traffickers were sentenced of one to five years’ imprisonment, 56 traffickers were sentenced of five to ten years’ imprisonment and two traffickers were sentenced to more than ten years’ imprisonment.

³⁰ A.I. Dolgova, *Zdorovie natii* (Moscow, 1996), 132.

whose balance inclines to the first issue are included. The social factors also contain the peoples' low level of education, the generation gap, losing the social values, mirage of the Western lifestyle, lack of the legal culture of young generation or the lack of life knowledge. To these kinds of factors presented above another one can be added - the political one - which influences the people's culture by lack of a real strategy on immigration and also by deficiencies of the regional strategies on combating trafficking or in a lack of national legislation. However, despite the social, economic and political factors which represent a real source of producing phenomena of transnational criminality all over the world, particularly in the Eastern Europe, illegal immigration is conditioned not only by the home drawbacks, but also by the trends to "humanize" labour and also to minimize globalization. Another point of view³¹ relates the trafficking phenomenon with a high level of graduated people who live in their home countries. In this situation, there is a common tendency for this kind of population who wish to go abroad in order to find a better life, work, and spend a decent everyday life.

Using its definition, trafficking in human beings means "recruiting, transporting, transferring, housing or accepting people by assault and battery, by using force or other forms of under duress, by using the offence of rape, fake or abuse, or by using a vulnerable position, by offering or receiving a tax or benefit in order to obtain the powerful accord for other people's exploitation". Exploitation refers to the kind of offences such as: prostitution, sexual exploitation, forced labour, slavery or other similar practices or assaying organs. It is appreciated that, at the moment most of the Eastern European societies are confronted with these forms of trafficking and for the national authorities it is impossible to solve completely these deficiencies knowing that the organized criminal groups are permanently involved in the development of the phenomena.

However, as the criminologists have stated, the law enforcement should always be one step ahead the perpetrators. The "technologies" of recruiting young people for transnational criminality, in particular young girls, usually up to 18 years old, are the well-organized networks and managing diverse methods of attracting them in these kinks. For example, one of the preferred ways to transport girls abroad is used through the tourism agencies

³¹ Vitalie Budeci, "Traficul de finite umane – Principala forma a migratiei ilegale in contextual situatiei actuale din R. Moldova," in: *Prävention und Bekämpfung der Transnationalen Verbrechen: Theoretische und Praktische Probleme* (Menschenhandel, Terrorismus, Geldwäsche, der Illegale Drogen – und Waffenhandel), Sammelwerk der internationalen wissenschaftlichen und praktischen Konferenz, 105-106 (Chisinau, 2005).

or firms having as main activity recruitment for working abroad or the so-called matrimonial or modelling agencies.³²

Involving the European judicial co-operation in criminal matters, Romania is a part of the regional and international instruments of controlling various forms of serious crimes, such as terrorism and organized crime. The Southeast European Cooperative Initiative, in particular the Regional Centre for Combating Trans-Border Crime³³ is a proof of developing several partnerships in and out of the European Union.³⁴ Since 2002, Romania has signed the bilateral co-operation protocols with various countries such as Switzerland, the Netherlands, Bulgaria, China, Albania and the Republic of Moldova.

Up to the present, the Council of the European Union adopted the conclusions on the Commission's reports on progress in Bulgaria and Romania under the co-operation and checking the mechanisms of fighting criminality and respecting EU rules in criminal matters.³⁵ On that occasion, the Council noted the good level of co-operation of Bulgaria and Romania with Commission and with other Member States as part of the responsibilities assumed by these countries on criminal matters.

Rethinking political partnership is dedicated for more decisive and strategic approaches and for the progress made both by the Bucharest and Sofia authorities in order to continue their efforts to adapt the home legislation to the European one. At the same time, the Council added that these two countries are called to intensify their efforts "by taking all the necessary steps without delay and by demonstrating tangible and lasting results especially in the areas highlighted in the report".³⁶ At the same time, the EU recommendation is to consider an efficient, independent and impartial judicial system with sufficient resources in each Member States, which is indispensable for enacting the

³² Ibid., 107.

³³ In 2007, for example, the total quantity of heroin captured in the SECI Center increased overall by 28%, cocaine 27 %, but almost 87% of the confiscated quantities. See: <http://seepag.info/download/Draft%20minutes%20of%20the%2012th%20SEEPAG%20Meeting%20%20Durrës%20%20Albania%20%20June%2026-27%20%202008.doc>

³⁴ Aside of the EU Member State, Southeast European Cooperative Initiative of SECI Center of Bucharest has the following non-Member States: Albania, Bosnia and Herzegovina, Croatia, F.Y.R. of Macedonia, Moldova, Montenegro, Serbia and Turkey.

³⁵ 2960 General Affairs Council Meeting on 14 September 2009 in Brussels *Council Conclusions on the Mechanisms on Cooperation and Verification of Bulgaria and Romania*, available online at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/110110.pdf

³⁶ Ibid.

EU policies and also for creating a stable and safe climate for the European citizens.

Regarding the reform of the judicial system in Romania, the Council stated that this country has taken a number of good steps which consisted in adopting the new Code of penal law. This momentum is also appreciated as a positive change, but it does not produce a real effort in this field yet. One of the major drawbacks of the Romania's judicial system remains corruption. In this matter, this country's authorities still develop a defective policy, which is not favourable to the citizens.

Relative to Bulgaria's results in this area of interest, the Council's conclusions were positive too. They noticed acknowledging a momentum in recognizing steps undertaken in improving corruption and organized crime. However, it is still considered as one of the most delicate issues arisen in this country.³⁷ As a drawback of the domestic authorities, the Council reiterated the need to develop an unequivocal political and also to start a profound reform in the judicial field. Thus, in co-operation with Bulgaria and Romania other Member States are ready to conduct the assistance needed to attain the proposed objectives.

Protecting Standards in European Criminal Law

Taking into account the complexity of the European Union negotiations in the field of Justice and Home Affairs and highlighting difficulties in conciliating Member States judicial cultures and challenges related to the introduction of some new and original cross-border co-operation models at the supranational level, at the beginning of the idea of an area of freedom, security and justice created since the Tampere EU Council of 1999, the European officials have been involved in developing common criteria of solving current problems of their societies by providing several mechanisms which will be discussed below.

Even from the very beginning of the European negotiation upon this kind of values, one of the most appreciated issues emphasizes that the Member States need to intensify the fight against terrorism and organized crime, as one of the main objectives of the future. They also have taken into account other priorities for the next period of time such as: immigration and asylum policies. However, despite the huge efforts they have made in order to achieve these purposes, the undeveloped economic system of the Eastern Europeans and also the transition period they have undergone were serious drawbacks in this project. It is well-known that, this kind of problems will produce illegal immigration in Europe, exclusively from the Eastern to the Western part of the

³⁷ Ibid.

continent.³⁸ This means that, the “coordination of migration policy remains at a low level and public disputes”.³⁹ At present, this issue is still recognized within the European Council and the Commission as being one of the most urgent policies that should be implemented into the national legal system of the Member States, because of the high level of illegal immigrants who arrive in the Western countries every year, The United Kingdom, France, Italy and Germany as preferred destination.⁴⁰

However, at the moment, the European law enforcement states that the transnational criminality in Europe is developed more and more rapidly on outdated notions of national sovereign states that pose obstacles to join anti-crime efforts.⁴¹ At the same time, the European doctrine speaks about all opportunities of co-operation between the Member States as a solution to negotiate a comprehensive framework of agreements, such as Mutual Legal Assistance and Extradition Treaties in order to facilitate exchanges of information and data in criminal cases. This means that, a wide range of legal instruments (hearing witnesses, forensic procedures, collecting evidence) performed in a country can be used in the judicial process in another country. Moreover, their effort focuses on developing an area of effective criminal justice system at all levels: police, prosecution, judgment.

Since the Belgian presidency of the EU, in the second part of 2001, the attention of law enforcements was focused on further common efforts to approach the challenges of transnational criminality⁴² both in Europe and all over the world. At that time, it was discussed the benefit of the globalization in an increasingly border free world in opposition with other interest in laundering money and in “the roam of the electronic environment of computer network with the help of sophisticated technologies.”⁴³

³⁸ Delia Magherescu, “The Danger of Organized Crime Development at the East of Europe and its Movement from East to West,” in: *Anuario de la Facultad de Derecho da Universidade Da Coruna* 13 (2009): 405-410.

³⁹ Glennly, *Migration Policies of the Western European Government and the Fight Against Organized Crime in SEE*, 36.

⁴⁰ A statistics published at the European level show that in Britain, France and Germany, “figures over the five years to 2002 hover between 100.000 and 225.000 net immigrants in each country”: Ekavi Athanassopoulos (ed.), 37.

⁴¹ W. Chamberlin, “Remarks before the EU – US Conference on Strategies to Combat Transnational Organized Crime,” in: *Strategies of the EU and the US in Combating Transnational Organized crime*, ed. Brice De Ruyver, Gert Vermeulen and Tom Vander Beken, 31 (Antwerpen-Apeldoorn: Maklu, 2002).

⁴² Vitorino, *Strategies of the EU and the US in Combating Transnational Organized Crime*, 15.

⁴³ Ibid.

Most of the recommendations adopted in this matter have been fully implemented, even since the endorsement of the Amsterdam Treaty and its two Action Plans in the matter of fighting organized crime. This means the era of progress in the development of national co-operation by disappearing in the national procedures some legal institutions that are not the result of the treaty. Moreover, the Amsterdam Treaty has started a new era in the fields of police and judicial co-operation in criminal matters.

Because of the rapid development of the transnational organized crime in Europe, and also taking into consideration its alarming feature against democracy and rule of law, the European officials decided to set up the European Police Office,⁴⁴ as a Law Enforcement Organization which is involved in co-operation between Member States in preventing and controlling various forms of transnational serious crimes.⁴⁵ Having an international vocation and competence in this kind of activities, Europol has a fruitful co-operation with the non-Member States too. In order to achieve this purpose, bilateral agreements have been signed with Switzerland, Croatia, Albania, Bosnia and Herzegovina, FYR of Macedonia, Moldova, Turkey and Russia. Europol also assists non-Member States in their interest in preventing transnational criminality in Europe that affects most of the various values of the European Union.⁴⁶

The European doctrine has included a certain contradiction, the so-called *paradoxes* of the judicial systems of the Member States. One of these refers to the principle of territoriality that is also placed within the traditional concept of the states' sovereignty. Another paradox takes into consideration the "material world" location, time, perpetrators, victims, witnesses and procedures – all these elements being investigated in the reconstruction of a crime scene, for example. The virtual world⁴⁷ appears as an alternative in finding a way to help the judicial bodies in their investigation, prosecution or judgment. Moreover, this paradox concerns the dilemmatic character of the Internet and the advantages it produces.

⁴⁴ The Europol has been established on 7 February 1992 and also regulated by the Convention based on the Article K.3 of the Treaty of the EU. The Europol Convention published in the Official Journal of the EU OJ C 316 of 27 November 1995, at p. 1.

⁴⁵ See: <http://www.europol.europa.eu/index.asp?page=home&language=>

⁴⁶ The Europol Convention available on-line at: http://www.europol.europa.eu/legal/Europol_Convention_Consolidated_version.pdf

⁴⁷ M. Den Boer, "Cybercrime," in: *Strategies of the EU and the US in Combating Transnational Organized crime*, ed. Brice De Ruyver, 15 (Antwerpen-Apeldoorn: Maklu, 2002).

Special Focus on the Phenomenon in the Western Europe

As I have already stated in the above mentioned chapter the development of the criminal phenomenon in Eastern Europe tends to influence the European values of the Western part of the continent, it is true and I have to admit that there already is a nexus between them. In other words, the Eastern European societies can be called as sources and transit areas, but the destination is assuredly the Western countries. Speaking about its *transitivity* in Europe, the criminality is researched in a different manner on a variety of sources of diverse reliability, while the scene of action is a very dynamic one.⁴⁸

Indeed, the character of transition of the criminal phenomenon in Europe is perceived in various ways, from a “monolithic organization on its march to take control of society”⁴⁹ to a generalized picture made in a variety of ways of market opportunities and market segments on which the criminal groups may operate by introducing their own methods and style of perpetrating illegal market or developing underground economy. Thus, speaking about the “East-West crime”, it should not imply that transnational criminality in Europe is unidirectional with a spectre of an Eastern Mafia preying on innocent Western Europe.⁵⁰ This means that the Western European societies have had no lack of both traditional and organized crime. The home organized crime grown within the European Union “has apparently not been slow in taking advantage of the new routes and markets that have opened up to and through Central and Eastern Europe”.⁵¹

Nevertheless, at present, most of the Eastern nationals are involved in committing serious crimes in Western Europe because of the high economic development and life style, among others, that they do not find at the home countries. Moreover, the victims’ traffickers, for example, are attracted by the mirage of the standard of living in the Western European countries, more developed than in the origin ones.⁵² Unfortunately, most of the cases of illegal immigration, children and girls prostitution as well as other forms of transnational crimes are committed by the Eastern citizens in Western European countries. This phenomenon should be viewed as a “shopping criminality”

⁴⁸ Petrus C. Van Duyne, *Organized crime in Europe* (Nova Science Publishers, Inc. 1996), 91.

⁴⁹ Ibid.

⁵⁰ M. Joutsen, “Cross-border crime patterns between Eastern Europe and the European Union,” in: *Cross-border crime in a changing Europe*, ed. Petrus C. Van Duyne, 64 (Tilburg: Tilburg University, 2000).

⁵¹ Ibid.

⁵² Magherescu, *The Danger of Organized Crime Development at the East of Europe and its Movement from East to West*, 408.

imported from East to West. Moreover, a civilized society is not possible to be run as long as the law enforcement does not investigate the instruments of committing transnational crimes, at all, and also they are not conversant with organized criminal groups' *modus operandi*, which are variable and changed without a precise and permanent action plan.⁵³ Thus, remaining in the field of the economic issue of the Western European countries, its development has created turbulence on the crime scene. Moreover, the discussed phenomenon was emphasized by opening borders between East and West that have produced effects upon many forms of criminal phenomena with consequences in the future.

Theoretically speaking, the perpetrators' motivation in accelerating their criminal activity in the Western European countries depends on the adverse economies in transition in their home countries⁵⁴ and of the fundamental transformation in all of the Eastern Europe over the past years, while the organized crime had a fertile soil in which to grow. Moreover, the transition period that the Eastern countries are passing through has presently influenced this issue more than ever. The advanced technology including the Internet one has played a significant impact upon the illegal activities and also has resulted in new opportunities for the organized groups and for their activity. The organized groups have taken advantages of the transnational feature of global finance to "launder money, which is a process by which the proceeds of crime are disguised to conceal their criminal origins and make their future use appear legitimate."⁵⁵

From trafficking criminal activity in its various forms to the development of an illicit drug market as well as other similar forms of serious crimes, the idea of an integrated Europe without "innerborder controls"⁵⁶ become clear, while the law enforcement was worried because this would enormously enhance the opportunities for perpetrators to emphasize their "business". On the other hand, the worries were bigger as much as giving a certain market demand severe border control has only served for increasing "consumer prices which meant a higher netto profit per unit for the traffickers."⁵⁷ Moreover, creating a general theory on the free movement of criminal goods and persons in Europe, looking at the structure and prospects of a different market is important for that segment.

⁵³ Ian Loader, Neil Walker, *Civilizing Security* (Cambridge: Cambridge University Press, 2007), 235.

⁵⁴ Aromaa, *Trends in Criminality*, 15.

⁵⁵ Van Dijk, *The world of crime. Breaking the silence on problems of security, justice and development across the world*, 145.

⁵⁶ Van Duyne, *Organized crime in Europe*, 91.

⁵⁷ *Ibid.*, 93.

Since mid-1990s a large movement of the people from East to West occurred, which influenced the criminality side. Referring to the trafficking in human beings, the most desired destination countries are Austria, Germany, but also Belgium and the United Kingdom are preferred. Nevertheless, Italy is one of these countries, which are seriously affected by the foreigners who, part of them, are arriving in this geographical area for an illegal purpose. Until 2001, such countries having external borders with the non-European Member States (Germany shares a long border with Poland and Czech Republic, Austria borders on Slovenia, Hungary, Slovakia and Czech Republic, Denmark on long Baltic Sea) represented an ample possibility for transnational criminality and its influence to penetrate the Western societies. Moreover, many routes from the Western Balkan region into the Western European area have been linked in that period of time. From this point of view and also taking into account the geographical area of the continent, Switzerland is situated in a central position to Austria, Italy, France and Germany, and in this respect, it plays an important role with the Western Member States in their effort to control the transnational serious crimes.

Statistically speaking, until 1997 the main crimes committed in the Western European countries were assaults in Germany, rapes in Austria and Germany, robberies in Austria, while in Luxembourg, Belgium and Holland trafficking in drugs was more highly developed than in other countries of Europe. The phenomenon was additional with drugs and alcohol consumption and was very highly urbanized in these countries and also present in the United Kingdom. Despite the various forms of criminal activity performed in the whole of Europe, combating production and trafficking of drugs remain the goal of the law enforcements in their effort to develop joint actions.

At present, one of the most important threats is concerned with the potential use by the international terrorists of nuclear weapons, acquired with the help of the organized crime.⁵⁸ Even if the new global European context states clearly the governments' position for this purpose, an important criticism of the effective implementation of several instruments⁵⁹ both at the European and international level, shows how much the nexus between the organized crime, corruption and terrorism has been developed and also how they have

⁵⁸ Van Dijk, *The world of crime. Breaking the silence on problems of security, justice and development across the world*, 145.

⁵⁹ The Protocol on Trafficking in Persons, Especially Women and Children entered into force in December 2003, the Protocol on Smuggling of Migrants, entered into force in January 2004; the Protocol on Illicit Manufacturing and of Trafficking in Firearms, entered into force in June 2005.

committed themselves to share information on trends in this kind of serious crimes.⁶⁰

Studying the current issue from a comprehensive point of view, understanding the diversity of criminal co-operation and also emphasizing how criminal groups and their activities interact with the legitimate ones as well as to overrate the degree of complicated “symbiosis” of the perpetrators’ need to occur.⁶¹ Thus, doctrine has stated that not less than twelve guiding principles must be appreciated in order to analyze the criminal organized links and their infiltration in the interest area, viewed as the “web criminal cooperation”.⁶² The specialists distinguish, among others, public, semi-public, semi-private and private aspects of the criminal co-operation.⁶³ They also outline the dependence of the organized crime on the failure to manage the public sector of activity. It is a qualitative point of view of the criminal groups’ activity and the way in which they manage to achieve infiltration in the public sector.

On the other hand, quantitatively speaking, it is relevant how much the organized criminal groups have found a way to penetrate the Western societies as well as it is good to know how they use illegal instruments in order to destruct the abroad civilization of those countries. Actually, it is an immense danger to observe in which sense they extend the home criminal activity upon diverse fields of societies’ activity too.⁶⁴ It is only a reason for which officials have got involved in developing efficient mechanisms to control all these threats as much as they strengthen special legislations both at European and international level.⁶⁵ In the very beginning, law enforcements have been interested in creating a serious plan for solving migration of the criminality from Eastern to Western Europe. Only through several common actions, reaching the result of preventing all forms of transnational criminality in Europe that tends to affect Western society is possible. As sources for reducing the idea of

⁶⁰ Van Dijk, *The world of crime. Breaking the silence on problems of security, justice and development across the world*, 146.

⁶¹ Marcus Felson, “*The Ecosystem for organized crime*”. *Heuni Paper n° 26*, (Helsinki: Heuni, 2006), 7.

⁶² *Ibid.*, 7.

⁶³ Jon Spencer, *Organized crime, corruption and the movement of people across borders in the enlarged EU: A case study of Estonia, Finland and the UK*. *Heuni Paper n° 24*, (Helsinki: Heuni, 2006). In addition, see Petrus C. Van Duyne, *Threats and phantoms of organized crime, corruption and terrorism* (Nijmegen: Wolf Legal Publishers, 2004), 104.

⁶⁴ Ian Loader and Neil Walker, *Civilizing Security*, 235.

⁶⁵ The European legislative adopted by the European Council available online at: <http://register.consilium.europa.eu/servlet/driver?typ=&page=Simple&lang=EN&cmsid=638>

criminality,⁶⁶ diminishing offender convergence and transaction setting were preferred. However, increasing research in this matter convinces us of the fact that many forces of interest are involved in developing this project. They also create an idea of “zero tolerance” against any kind of criminal activity that could be developed in the whole Europe.⁶⁷

Thus, if I am looking for the transnational criminal acts that were committed in the Western European countries until 1999 an inflation for the typical influence of criminalization in society, named “conventional” criminalization, will be observed.⁶⁸ Moreover, it is notorious that the crime phenomena involve corruption, organized crime and economic crimes having a link between them. A particular feature arises in the countries with the lowest rates and also having “a low level of urbanization” in registered crime over the past three decades.

However, at the moment the rate of criminality in the Western European countries is increasing. Property crimes, assaults, robberies, armed robberies, burglaries, juvenile crimes, gang crimes, to which smuggling migrants are added, all these forms of serious crimes are committed in this geographical area. Unfortunately, it is not protected against the criminal groups’ target and tends to be developed. A report published by the Council of Europe in 2000 has pointed out that the increased forms of criminality in the Western Europe have as a result the political, economic and social changes produced in the last period of time.⁶⁹ Because of the real situation created upon the main three values (political, social and economic ones) I add that these phenomena must be in an alarming increase in the last two year period due to the global economic crisis that has affected both industries and social values of the Europeans. Unfortunately, at present, there are no statistics on the matter of criminal rates in the Western European countries in order to compare the transnational criminality with the same one in the recent past. It is also appreciated that, at the moment, the European Union Member States are confronted with a high level of influxes of criminality from Eastern Europe, for example trafficking in human beings from the Russian Federation, Romania, Republic of Moldova and Bulgaria, trafficking in firearms from the Western Balkan region, illegal caviar trafficking from the closeness of Caspian Sea area.⁷⁰ Based on the results of the comparative statistical information,⁷¹ reliable crime information

⁶⁶ Felson, *The Ecosystem for organized crime*, 15.

⁶⁷ *Ibid.*, 16.

⁶⁸ Aromaa, *Trends in Criminality*, 13.

⁶⁹ *Ibid.*, 14.

⁷⁰ Europol 2004, in: Van Dijk, *The world of crime. Breaking the silence on problems of security, justice and development across the world*, 5.

⁷¹ Performed by the International Crime Victim Survey since 1997.

on some of the largest developing countries including the Russian Federation, Ukraine, Moldova, is still conspicuously missing. However, the ranking of countries in Europe in terms of criminalization of serious crimes has been shown as a clear and consistent trend. From a European perspective, Poland has turned from a high crime into a medium crime country. In Sweden, for example, between 2000 and 2004, the crime rate dropped steeply and its level is now kept on the medium range.

In the United Kingdom the criminal rate has also increased in the last period of time. The level of crimes has climbed up to the level in England and Wales and has overtaken that of Scotland. Northern Ireland seems to pass a different situation because of the IRA's influence and its role in the informal policing has created a lack of social control in that area.

Despite the current situation at the economic level, I have to observe an enormous interest of the law enforcement in developing more efficient instruments of fighting organized crime having a transnational feature.⁷² One of them is initiated by the United Nations and is related to the border control, essential in combating transnational organized crime.⁷³ The co-operative activities were launched in order to increase co-operation between nations in crime related matters and control transnational cross-border crime phenomena which is the obvious target. As a matter of fact, the Anti-Organized Crime and Law Enforcement Unit within the United Nations Office on Drugs and Crime stipulates technical and professional assistance to officers on the problems of illegal immigration in improving exchange of information between the law enforcement agencies and border control. The legal framework of creating the European co-operation in criminal matters and improving the ability of the states to control the problems on their own crimes before extending them to the external borders has been preferred.

On the other hand, the Council of Europe Recommendation of 2001 emphasizes that "the organized groups' economic power, transnational connection and sophisticated techniques and methods, is a major threat to society,

⁷² EU/US Agreements on extradition and on mutual legal assistance, 14826/09, Luxembourg, 23 October 2009 available online at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/110727.pdf; Council Conclusions on the European Financial Coalition and national financial coalitions against child pornography on the Internet, 2969th Justice and Home Affairs Council meeting, Luxembourg, 23 October 2009, see: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/110748.pdf; Council Conclusion/ the Brussels Declaration made at the European Conference on Preventing and Combating Trafficking in Human Being, held on 18-20 September 2002, see: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/polju/EN/EJN339.pdf;

⁷³ See UNODC: <http://www.unodc.org/unodc/en/organized-crime/law-enforcement.html>

the rule of law and democracy to which states need to react with a common strategy⁷⁴ is related in the Preamble of the Committee of Ministers aware of the need of the Member States to develop “a common crime policy in relation to organized crime by creating opportunities which ensure greater effectiveness in their legislation and enhance international co-operation in this area.”⁷⁵

Conclusion

Basically, from the traditional organized crime in Europe, even if a few particular cases have been taken into consideration in the current research work and only in a tangential manner, which are covered by a large spectre of the geographical area through defining the phenomenon proposed by doctrine to the contemporary transnational criminality in Europe, an inevitable process of social movement followed by a criminal one is noticeable. I am referring to the frequent cases of the transnational criminal activities committed by the Eastern European groups in the West part of the continent as well as to the serious consequences they produce both in the field of economy and socially speaking.

Due to the inhomogeneous cultural background, tradition and education of the European people and also taking into account the dramatic social movement of criminality from the East to the West of Europe, this process seems to be intensified in the last years more than ever. A long time ago, the transnational criminal phenomenon was preferred by the traffickers, but the significant moment of accelerating this scourge and its movement from East to West has been produced in the early 90s, while certain significant events on the European political scene occurred. One of them refers to the European frontiers between East and West which have fallen. This momentum is one of the most delicate because of the serious consequences it produced in the European societies after the fall of the Soviet Union and of the Berlin Wall, having consequences in the criminal activities of the Eastern groups while they “met” Western values and similar groups too. To these events, the deficit economy of the Eastern countries is added. Moreover, the high level of technology including the Internet has played a major role in determining criminality in Europe, as I have already presented above. However, despite the huge efforts made by the law enforcement agencies both at European and national levels, the market for trading illegal goods and services was intensified enough to generate illegal revenues.

⁷⁴ See the Council of Europe, Recommendation Rec.(2001)11 of the Committee of Ministers to Member States concerning guiding principles on the fight against organized crime adopted on 19 September 2001: http://www.secicenter.org/doc/Recommendation_on_fighting_organized_crime.19.09.2001.pdf

⁷⁵ Ibid.

At the same time, a range of illegal activities was produced by the Mafia groups, from trafficking in human beings to smuggling, from arm trafficking to illegal or underground activities that existed in the socialist countries. On the other hand, the danger of the criminality movement from the East to the West of Europe is presently one of the main priorities of the European authorities in their efforts of controlling this kind of serious crimes, which tends to affect the most sensitive areas of the Western European values. This is a result of the uncivilized invasion of the Eastern nationals who recently joined the European Union and of their non-member neighbours.

As a matter of fact, three main conclusions rise on the present study:

- criminality is a target of the law enforcement and its strategies of controlling it by adopting several legal instruments in this respect;
- criminality is a product of the process of social transformation in the East of Europe and the transition period the Eastern people are still passing through;
- criminality is a permanent and main preoccupation of the criminal groups, which degenerates in a serious criminal subculture.

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Резиме

Делија Магереску

Транснационални криминалитет у Европи и опасности од његовог преношења са Истока на Запад

Кључне речи: *транснационални криминалитет, Источна Европа, Западна Европа, криминалне групе, организовани криминал*

Свакодневни криминалитет представља праву опасност по савремено друштво и тежи да продре и у најосетљивије сфере друштвене делатности. Овај се рад бави феноменом криминала у Европи и његовим преношењем из источног у западни део континента. У раду се наглашавају посебне одлике транснационалног криминалитета у Европи у оквиру једног од најзначајнијих поља истраживања, оног који се тиче криминалних група, метода криминалног деловања, процеса истраге и контролних механизма примене закона. Рад је резултат темељног истраживања у овом пољу и узима у обзир стандарде које постављају европско криминално право и националне стратегије за борбу против тешког међународног криминала. Коришћен је компаративни приступ при разматрању криминалитета у Источној и Западној Европи, уз посебан нагласак на овом феномену у Источној Европи. У истраживачкој методологији употребљени су компаративни, синтетички и аналитички методи.