

INTEREU^{LAW}EAST

European and International Law Master Programme Development in Eastern Europe



Co-funded by the
Tempus Programme
of the European Union



DIGITAL SINGLE MARKET: NEW ONLINE OPPORTUNITIES FOR CRIME OR /AND JUSTICE

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PILLARS (POLICY AREAS) OF DSM

The Digital Single Market strategy is made up of three policy areas or “pillars”:

1. **Better online access to digital goods and services**

Helping to make the EU's digital world a seamless and level marketplace to buy and sell.

2. **An environment where digital networks and services can prosper**

Designing rules which match the pace of technology and support infrastructure development.

3. **Digital as a driver for growth**

Ensuring that Europe's economy, industry and employment take full advantage of what digitalisation offers.

Question:

**WHAT DO WE EXPECT TO RECEIVE AS A RESULT
OF THE REALIZATION OF THESE THREE
PILLARS?**

UNLOCKING E-COMMERCE POTENTIAL



**38% of consumers feel
confident buying online from
other countries**



**62% of companies willing to
sell online say delivery costs
are a problem**



**40% of companies think
national contract laws are an
obstacle**

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3. Digital as a driver for growth

Ensuring that Europe's economy, industry and employment take full advantage of what digitalisation offers.

+ 415 billions euros per year!!!

Question:

**WHERE DO YOU SEE THE DANGER OF
EXTENSION OF THE POSSIBILITIES FOR
CRIMINALS?**

PILLARS (POLICY AREAS) OF DSM **AND CRIME**

The Digital Single Market strategy is made up of three policy areas or “pillars”:

1. **Better online access to digital goods and services**

Helping to make the EU's digital world a seamless and level marketplace to buy and sell || **Inventing of the new possibilities for fraud**

2. **An environment where digital networks and services can prosper**

Designing rules which match the pace of technology and support infrastructure development || **Creation of the environment for the money laundering**

3. **Digital as a driver for growth**

Ensuring that Europe's economy, industry and employment take full advantage of what digitalisation offers || **Creation of supportive conditions for online- extension of illegal practice (pornography, violence, xenophobia)**

OPINION OF CITIZENS

- Europeans remain very concerned about cyber security
 - 89% of internet users avoid disclosing personal information online, and 12% have already experienced online fraud
 - **74%** agree that the risk of becoming a victim of cybercrime has increased in the past year
 - **61%** are concerned about experiencing identity theft
 - **43%** are concerned about not being able to access online services because of cyber attacks
- Around one million people worldwide fall victim to some form of cybercrime every day
- Estimates indicate that victims lose around €290 billion each year worldwide as a result of cybercriminal activities

*(Source: 2011,
2012 Eurobarometer)*

DSM

NEW SPACE ILLEGAL PRACTICES???

- DSM and distribution of pornography, sexual exploitation of women, children
- DSM and dissemination of xenophobia, racism
- DSM and infringement of intellectual property rights
- DSM and terrorism
- DSM and trafficking
- DSM and drug trafficking
- DSM and arms trafficking
- DSM and money laundering
- DSM and fraud

EU CRIMINAL LAW & DSM

WHAT IS THE CRIMINAL LAW OF EUROPEAN UNION?

EU CRIMINAL LAW

DOMESTIC CRIMINAL LAW ???? INTERNATIONAL CRIMINAL LAW

EU criminal legislation

- EU cannot adopt a general EU criminal code
- However, EU criminal legislation can add, within the limits of EU competence, important value to the existing national criminal law systems

EVOLUTION OF EU CRIMINAL LAW

1. **1951-1993 (from the creation of European Communities to the creation of the European Union)**
 - establish the obligations of the state for the ensuring of criminal legal and criminal procedural measures of executions of the secondary legislation of the Communities
2. **1993-1997 (between conclusion of Maastricht and Amsterdam Treaties)**
 - formation of EU Criminal Law in third pillar (Justice and Home Affairs) – mixed method, relied mainly on intergovernmental cooperation
3. **1999-01.12.2009**
 - formation of «Space of freedom, security and justice» and strengthening of the cooperation of the police and courts in criminal legal sphere, recognition of the principle of recognition of the judicial decisions on criminal matters
4. **2009 contemporary (Lisbon stage)** – after Lisbon Treaty came into force

TREATY ON FUNCTIONING OF THE EU

- The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws (§ 3 ст. 67)
- main directions of the ensuring of security in the frames of the European Union

FORMS OF ENSURING THE SECURITY IN THE EU - I

- define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice (art.68)
- adopt measures to:
 - (a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;
 - (b) prevent and settle conflicts of jurisdiction between Member States;
 - (c) support the training of the judiciary and judicial staff;
 - (d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions. (art.82.1)
- establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis (art.83.1) – **Substantive Criminal Law**
- measures to promote and support the action of Member States in the field of crime prevention (art. 84).... Etc....

FORMS OF ENSURING THE SECURITY IN THE EU -

II

- **Ensuring of Eurojust's activities (art. 85)**
 - (a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union
 - (b) the coordination of investigations and prosecutions referred to in point (a)
 - (c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network
- **establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences (art.87)**
 - (a) the collection, storage, processing, analysis and exchange of relevant information
 - (b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection
 - (c) common investigative techniques in relation to the detection of serious forms of organised crime
- **Ensuring of Europol's activities (art. 88)**
 - (a) the collection, storage, processing, analysis and exchange of information, in particular that forwarded by the authorities of the Member States or third countries or bodies
 - (b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust

COMPONENTS OF EU CRIMINAL LAW

- criminal substantive legal component as a system of secondary legislation, which provides indirect criminalization and penalization of certain offenses
- complex criminal procedural component:
 - a system of norms ensuring police and judicial cooperation on criminal matters
 - a system of norms, directed at formation and functioning of coordinative structures (Europol, Eurojust, EJN)
 - a system of norms, aimed on the optimization of national criminal legal system and protection of human rights in the sphere of criminal justice
- criminal preventive component

EU CRIMINAL MATERIAL LAW ON PREVENTION OF CYBER CRIMES

- **a series of measures that seek to protect citizens from online crimes**
 - Directive on attacks against information systems (IP/10/1239 and MEMO/10/463)
 - Directive on combating the sexual exploitation of children online and child pornography adopted in 2011 (IP/11/1255)
 - COUNCIL FRAMEWORK DECISION 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law
- **a series of measures that seek to protect the financial interests of the EU**
 - Joint Action of 3 December 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime (98/699/JHA)
 - Council Framework Decision of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (2001/500/JHA)
 - Directive of European Parliament and Council 2005/60 / EU dated 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing etc...

EUROPEAN CYBERCRIME CENTRE (EC3)

BACKGROUND

- The Commission announced its intention to establish a European Cybercrime Centre (EC3) in the 'EU Internal Security Strategy in Action' (IP/10/1535 and MEMO/10/598), adopted on 22 November 2010 by the Commission
- The European Cybercrime Centre (EC3) commenced its activities in January 2013



"In combatting cybercrime, with its borderless nature and huge ability for the criminals to hide, we need a flexible and adequate response. The European Cybercrime Centre is designed to deliver this expertise as a fusion centre, as a centre for operational investigative and forensic support, but also through its ability to mobilise all relevant resources in EU Member States to mitigate and reduce the threat from cybercriminals wherever they operate from"
(Troels Oerting, Head of the European Cybercrime Centre)

EUROPEAN CYBERCRIME CENTRE (EC3)

WHAT DOES THE EC3 DO?

The EC3 has been tasked to focus on the following three areas:

- Cybercrimes committed by organised groups, particularly those generating large criminal profits such as online fraud ;
- Cybercrimes which cause serious harm to the victim such as online child sexual exploitation ;
- Cybercrimes (including cyber-attacks) affecting critical infrastructure and information systems in the European Union

Europol's EC3:

- Serves as the central hub for criminal information and intelligence;
- Supports Member States' operations and investigations by means of operational analysis, coordination and expertise;
- Provides a variety of strategic analysis products enabling informed decision making at tactical and strategic level concerning the combating and prevention of cybercrime;
- Establishes a comprehensive outreach function connecting cybercrime related law enforcement authorities with the private sector, academia and other non-law enforcement partners etc...

EUROPEAN CYBERCRIME CENTRE (EC3)

STRUCTURE

Head of EC3

Head of Operations

CYBER INTELLIGENCE

**HIGH-TECH
CRIMES**

**PAYMENT
FRAUD**

**CHILD
SEXUAL
ABUSE**

FP CYBORG

.....
FP TERMINAL

.....
FP TWINS

**JOINT CYBERCRIME ACTION TASKFORCE
(J-CAT)**

Head of Strategy

**OUTREACH
& SUPPORT**

.....
**STRATEGY &
DEVELOPMENT**

.....
**FORENSIC
EXPERTISE**

**OUTREACH &
COOPERATION**

**PUBLIC AWARENESS
& PREVENTION**

**STRATEGIC
ANALYSIS**

**TRAINING &
CAP. BUILDING**

**DIGITAL
FORENSICS**

**DOCUMENT
FORENSICS**

 **EUROPOL**

EC3
European Cybercrime
Centre



CONCLUSIONS

- 1) The existing secondary legislation of the EU is enough for ensuring security of the functioning of DSM
- 2) In the frame of the EU the special structure was created to deal with cyber crimes in the sphere of DSM
- 3) The possible problems are as follows:
 - protection of citizens and legal entities from the expansion of the EU body and of aggregating companies (such as Google) in the sphere of personal data and confidential information while operating the commercial transactions in DSM

THANK YOU FOR
ATTENTION!!!