

**МЕЖДУНАРОДНОЕ ПРАВО****INTERNATIONAL LAW****SCIENTIFIC ARTICLE**

Submitted: 02.12.2020

Revised: 28.12.2020

Accepted: 18.01.2021

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**Development of criminal jurisdiction of the European Union**

**Abstract:** the criminal jurisdictions of the European Community and subsequently the European Union began to develop as subsidiary competencies aimed at protecting economic and industry policies established by the founding treaties. Their development has pointed to the necessity of using forced measures for the preventing abuse and countering criminal activities in the area of the customs union and the common market. This paper presents the gradual transfer of limited criminal jurisdictions from the jurisprudence of the European Court of Justice and communitarian law into the contractual competences of the European Union with an explicit legal basis after the entry into force of the Treaty of Lisbon. Using the teleological method, the method of the content analysis (of the legal norms) and the comparative method the paper emphasizes examples of using criminal jurisdictions within the framework of communitarian law, the delimitation of competencies between the EU and the EC, and the changes made by the Treaty of Lisbon in relation to the EU Treaty of Amsterdam. Amendments to the founding treaties have set the foundations for developing criminal jurisdictions into the supranational criminal law that through its norms would supplement national criminal justice systems in the areas of substantive criminal law and the law of criminal procedure.

**Key words:** criminal jurisdiction; case law; community law; EU law; The Treaty of Lisbon; principle of subsidiarity; EU criminal law.

**Citation:** Vasilkov, Zorančo, Dragana B. Lazić. 2021. "Development of criminal jurisdiction of the European Union". *Juridical Analytical Journal* 16(2): 7–14. <http://doi.org/10.18287/1810-4088-2021-16-1-7-14>.

**Conflicts of interest:** the authors declared no conflicts of interest.

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**НАУЧНАЯ СТАТЬЯ**

УДК 341.4

Дата поступления: 02.12.2020

рецензирования: 28.12.2020

принятия: 18.01.2021

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## Развитие уголовной юрисдикции Европейского союза

**Аннотация:** уголовные юрисдикции европейского сообщества и впоследствии Европейского союза начали развиваться в качестве дочерних компетенций, направленных на защиту экономической и отраслевой политики, установленных учредительными договорами. Их развитие отражает необходимость использования принудительных мер для предотвращения злоупотребления и противодействия преступной деятельности в области таможенного союза и общего рынка. В данной статье представлена постепенная передача ограниченных уголовных юрисдикций из судебной практики Европейского суда и коммуникационного права в договорные компетенции Европейского союза с четкой правовой основой после вступления в силу Лиссабонского договора. Используя телеологический метод, метод анализа правовых норм и сравнительный метод, авторы отражают в статье примеры применения уголовных юрисдикций в области коммуникационного права, а также разграничение полномочий между ЕС и ЕС с изменениями в рамках Лиссабонского договора в отношении Амстердамского договора о ЕС. Поправки к учредительным договорам установили основы для развития уголовных юрисдикций в наднациональном уголовном законодательстве, благодаря этому национальная система уголовного правосудия будет дополняться нормами в области уголовного права и уголовного процесса.

**Ключевые слова:** уголовная юрисдикция; прецедентное право; закон сообщества; право ЕС; Лиссабонский договор; принцип субсидиарности; уголовное право ЕС.

**Цитирование:** Vasilkov, Zorančo, Dragana B. Lazić. 2021. "Development of criminal jurisdiction of the European Union". *Юридический аналитический журнал* 16(1): 7–14. <http://doi.org/10.18287/1810-4088-2021-16-1-7-14>.

**Конфликт интересов:** авторы заявляют об отсутствии конфликта интересов.

### ИНФОРМАЦИЯ ОБ АВТОРАХ

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### Introduction

The European Union has been developing criminal jurisdiction for over 20 years absorbing the criminal jurisdiction of the Community emerging in the 1960s, in order to successfully combat crime that has, in the interim, essentially become more sophisticated and predominantly international. In the prior period, a certain degree of harmonization of the definition of criminal offenses and sanctions for particularly serious offenses has been achieved within the member states. However, the lack of explicit legal basis in primary law prior to the entry into force of the Treaty of Lisbon considerably hindered the development of the European Union criminal jurisdiction.

It should be noted that the Treaty of Amsterdam introduced a form of intergovernmental cooperation in the field of criminal law, emphasizing unanimity i.e., the consent of all member states in the Council of the European Union for adopting legislation within the third pillar, occasional and superficial consultations with the European Parliament and a lack of possibility to initiate criminal proceedings before the European Court of Justice as a control

mechanism for proper application of criminal law measures by the individual member states. Member states are obliged to ensure the application of EU law and commonly decide independently on the means and methods for the implementation of these measures in national legislation. In cases where the application of EU law in the member states does not produce the desired results and cases of marked inequality of this law application, the Union may establish common rules to ensure the implementation, including, if necessary, a requirement to impose criminal sanctions for infringements of EU law.

Criminal law is a highly sensitive area whereby essential differences between national systems remain, primarily in defining criminal offenses and determining criminal sanctions for the perpetrators of these offenses. These differences serve as the impetus for EU action in the field of criminal law, considering the increasingly prominent cross-border dimension of various crimes. The adoption of criminal law measures at the EU level should prevent criminals from hiding behind national

borders and abusing the differences between national legal systems for criminal purposes and intentions. EU criminal law measures play a significant role in complementing national criminal law that generally reflects the basic national values, customs, and legal traditions of each individual community.

As in the case of national criminal legislation, EU criminal legislation has to be developed carefully and gradually. Criminal law, whether national or European, contains rules that significantly affect the position of individuals. For that reason, and since criminal law must always remain the last resort, it is necessary to respect the fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the legal principles of subsidiarity and proportionality at the level of EU.

In the field of criminal law, particular attention should be given to subsidiarity as a basic principle of EU law. Hence, the EU may adopt criminal legislation only provided that a goal cannot be achieved effectively by measures adopted at a national, regional, or local level and therefore the proposed measures can be better implemented at the level of the Union due to their importance or effect.

### **1. Criminal jurisdiction of the European Community**

At the time of the establishment of the European Economic Community and its subsequent transformation into the European Community (hereinafter: the EC or the Community), the Treaty on European Union established economic integration, the customs union, and the common or the single market as main areas of cooperation between member states (Lopandić, Janjević 1995, 53). European Community law or the Community law was primarily established to enable the development of national economies within the wider customs union while ignoring the fact that the legal and successful functioning of the economic integration of the founding states was partially ensured by criminal law. The fact that the resolution of abuses in the economic and financial sphere within the EC could be ensured by the existence of certain norms of criminal law, i.e., criminal jurisdiction of the Community, was initially overlooked (Bridge 1976, 88–97). The protection of the EC economic system by criminal jurisdiction became inevitable at the time of the establishment and functioning of the common market, and subsequently in other areas of common policies after the creation of the EU.

In the late 1960s and early 1970s, community law developed the principles of mutual influence or interaction with the national criminal justice systems of member states, namely: 1) the general obligation of member states to ensure the protection of EC values by criminal law (the principle of assimilation); 2) the authority of the EC to issue directives with criminal law provisions; 3) the superiority of the application of EC law over national criminal law; 4) interpretation of national criminal law in accordance with EC law and 5) blanket reference of criminal law regulations to EC regulations (Đurđević 2004, 278–326). In practice, the European Court of Justice implemented these principles of mutual influence and enabled EC criminal jurisdictions to become part of Community law by gradual affirmation through judicial practice, whereas subsequently, with the adoption of the Maastricht Treaty, to become partially included in intergovernmental cooperation and incorporated into the third pillar of the EU referred to as «Cooperation in the field of internal affairs and justice».

This caused extremely conflicting views in academic communities, especially the opposition between the theorists of EC law and criminal law in the member states, on the issue of criminal jurisdictions of the EC primarily due to the lack of specific provisions on criminal jurisdictions in the EC Treaty. The legal nature of the Community and its focus on the common market and the exercise of freedom of movement within that market did not indicate any relation to criminal law, i.e., any joint action of EC law and criminal law. However, in practice quite the opposite was confirmed, specifically, that Community *acquis* or Community law and national criminal law must interact, primarily when adopting and applying Community law in the member states. This interaction led to the development of Community criminal jurisdiction based on judgments of the European Court of Justice. In several cases, the Court confirmed a mutual relationship between criminal law and Community law that was reflected in the impact of Community law on national criminal law, but also in the influence of the principles of national criminal law on Community law.

Thus, the European Court of Justice developed principles (mechanisms) that could stimulate and encourage the use of criminal law at the national level to protect the interests of the Community. Encouragement of the application of national criminal law referred to cases whereby the national law was obliged to ensure the effectiveness i. e., the implementation of Community law within the

member states. In the late 1970s, in *Amsterdam Bulb* judgment, the European Court of Justice ruled on the necessity of the application of Community criminal jurisdiction in order to ensure the effectiveness of Community law, arguing that Article 5 of the EC Treaty requires the member states to take all appropriate measures, general or individual, to protect Community interests, including sanctions that may even be criminal in nature<sup>1</sup>.

The protection of Community law was extended by the European Court of Justice in the case of *Commission v. Greece* towards the end of the 1980s, whereby the principle of effectiveness encouraged the introduction of criminal sanctions for the protection of the Community's financial interests. In the judgment, which was a turning point in the development of criminal jurisdiction of the Community and subsequently of the Union, the Court argued that national law was obliged to ensure penalties for the infringements of Community law, under procedural and substantive conditions, analogous to those of the infringement of national law of similar nature and significance that would ensure the effectiveness, proportionality, and dissuasiveness of the penalty<sup>2</sup>.

Affirming the effectiveness of Community law as a principle of influence on national law, with this case the European Court of Justice introduced the principle of assimilation into Community law, namely: "Community law is to be assimilated into national legal systems, whereas infringements of Community law are to be treated analogously to treatment in case of violating similar national laws". Based on legal analogy, the Greek institutions should have treated the fraud against the Community budget equally to fraud against the national budget, implying that since fraud against the national budget required criminal sanctions, the fraud against the EC budget also required the imposition of criminal penalties at the national level.

The protection of EC financial interests became an area of intense activity of the institutions of the Community i.e., the Union in the second half of the 1990s. The Commission launched a broader initiative for the adoption of criminal law to combat fraud, funded by the Community budget, and proposed the adoption of a *Corpus Juris* to combat fraud and protect the Community's financial interests. The *Corpus Juris* essentially took the form of a mini criminal code and defined

the crimes of fraud, corruption, and money laundering, including, at that point, a revolutionary proposal for the establishment of the European Public Prosecutor's Office<sup>3</sup>.

Article 280 of, at the time valid, EC Treaty was proposed as a legal basis for the adoption of the *Corpus Juris*. This article provided for the adoption of Community measures for the prevention of fraud, despite a restriction in paragraph 4 of the same article stating that the measures «shall not concern the application of national criminal law or the national administration of justice». Adhering to the letter of the Treaty and national sovereignty in the field of criminal law, member states rejected the adoption of the *Corpus Juris* and the establishment of the European Public Prosecutor's Office and although believing that such encroachment on national criminal law sovereignty would never emerge again, nevertheless just postponed the adoption of those until the entry into force of the Treaty of Lisbon. Subsequently, criminal law measures against fraud were included in the Convention and subsequent protocols adopted within the third pillar<sup>4</sup>.

## 2. The creation of the European Union and the division of criminal jurisdiction between the EC and the EU

The debates of the 1990s on the degree of influence of EC and EU law on national criminal justice systems and on whether criminal jurisdictions are the «exclusivity» of national legal systems seem definitely outdated today. National criminal law, as a trademark of the sovereignty of states, is increasingly affected by the development of criminal jurisdiction of the Community and the Union, as an indispensable part of strengthening the degree of political integration of member states within the EU.

The Maastricht Treaty and the establishment of the third pillar concerning EU cooperation in the field of internal affairs and justice, mark the beginning of the parallel development of criminal jurisdiction of the Community and the Union; however, without the establishment of precise boundaries of jurisdiction. The fact is that during the period of validity of the Maastricht Treaty, the Community maintained the same and a slightly higher level of criminal law influence on the member states, whereas the newly created EU within the third pillar had a limited influence on the

<sup>1</sup> Case C – 50/76 *Amsterdam Bulb* (1977) ECR 137, para 32.

<sup>2</sup> Case C – 68/88 *Commission of the European Communities v Hellenic Republic* (1989), ECR 2965.

<sup>3</sup> *Corpus Juris* [http://ec.europa.eu/anti\\_fraud/documents/fwk-green-paper-corpus\\_juris\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/fwk-green-paper-corpus_juris_en.pdf), 20/4/ 2014.

<sup>4</sup> *Fraud Convention* OJ C 316, 1995, *First Protocol* OJ C 151, 1997, *Second Protocol* OJ C 221, 1997.

criminal law of the member states. It is necessary here to briefly consider the newly created legal order of the EU that comprised EC law and EU law. EC law implies the legal framework of the Community law (whereby the supranational model of cooperation with the Commission's legislative initiative prevailed) from the founding of the European Communities in 1951 and 1957 to the entry into force of the Treaty of Lisbon, whereas EU law includes legal acts, from the founding of the EU by the Maastricht Treaty to the entry into force of the Treaty of Lisbon, that were adopted within the second and third pillars of the EU cooperation, with a clear predominance of intergovernmental cooperation, i.e. the dominance of the member states in the European Council.

Only the amendments made in the Treaty of Amsterdam and the restructuring of the third pillar referred to as «Police and Judicial Cooperation in Criminal Matters», encouraged the expansion of criminal jurisdiction within the legal order, i.e., within EU law<sup>5</sup>. The outlines of the criminal jurisdiction of the Union and a certain kind of delimitation of competences between EU law and EC law can be seen within the amendments introduced by the Amsterdam Treaty. The improvement of criminal law cooperation by harmonizing criminal law regulations within the member states «in order to ensure a high level of security and the area of freedom, security, and justice» is one of the priority tasks defined in the third pillar<sup>6</sup>.

The Treaty of Amsterdam on the EU introduced framework decisions as a special type of legal act of the Union intended precisely to harmonize the rights and regulations of the member states accompanied by the conventions retained from the Maastricht Treaty. Analogous to Community law directives, framework decisions oblige member states concerning the results that should be achieved, however, allowing the states to decide on the forms and methods for achieving this objective. Framework decisions and directives are also referred to as «two-stage legislation» since – unlike regulations – these are addressed to member states and not to private parties, whereas the regulations are addressed to all legal entities (citizens, companies, etc.) only in the second phase when a member state transposes a directive or framework decision into its national legislation.

Framework decisions allow the Union to exercise its jurisdiction over creating common minimum rules relating to the characteristics of

criminal offenses and criminal sanctions in the field of organized crime, terrorism, and drug trafficking<sup>7</sup>. The establishment of criminal jurisdiction through the harmonization of the aforementioned criminal acts imposed certain limitations on the jurisdiction, although the Treaty itself left open the possibility of expanding criminal jurisdiction and harmonizing norms for other forms of crime<sup>8</sup>. This was accomplished immediately after the terrorist attack on the United States on September 11, 2001, by adopting framework decisions and harmonizing criminal acts and sanctions in the EU member states concerning terrorism, human trafficking, sexual exploitation of children and child pornography, illegal drug trafficking, corruption, information system attacks, counterfeiting of Euros and non-cash means of payment.

The characteristics of framework decisions are the definitions of criminal offenses and the types of sanctions to be applied in all member states. The criminalization itself, primarily in framework decisions related to terrorism and organized crime, was broad and included certain types of behavior; however, not necessarily related to a specific act, thus leading to confusion and ambiguity (Symeonidou–Kastanidou 2004, 14–35). In the course of criminalization of terrorism, the EU jurisdiction was not focused only on harmonizing the substantive criminal law of the member states, but also on creating new offenses in the member states, thus influencing the expansion of national criminal norms and the introduction of new criminal offenses. The introduction of such, new, criminal offenses commonly results from the international obligations of the Community i.e., the Union. Framework decisions during the validity of the Amsterdam Treaty mainly replaced conventions serving as legal acts of public international law concerning the cooperation within the third pillar during the validity of the Maastricht Treaty. This indicates the development of criminal jurisdiction of the EU, thus introducing qualitative and quantitative changes in the secondary legislation of the EU in the field of freedom, security and justice through framework decisions. Although framework decisions do not produce a direct effect, the European Court of Justice nevertheless recognized their presumed direct or interpretative effect and thus, in addition to existing conventions and framework decisions, created a specific obligation to exert the Union's jurisdiction in the process of harmonizing the criminal law of the member states. In a judgment on the Pupino case of 16 June

<sup>5</sup> Treaty of European Union, OJ C 340, 1997, referred to as The Treaty of Amsterdam, TEU in the text.

<sup>6</sup> Article 29 TEU.

<sup>7</sup> Article 31 (e) TEU.

<sup>8</sup> Article 29(2) TEU.

2005, the European Court of Justice recognized the indirect effect of framework decisions, thus obliging national courts to interpret and assess whether national criminal law is in line with EU law<sup>9</sup>. It should be noted that certain criminal jurisdictions of the Community existed within the Community law; however, not within the Union since its foundation. Undoubtedly, this decision of the European Court of Justice is considered to have established the general property of indirect effect of framework decisions, thus allowing the penetration of the Union's criminal jurisdictions and the influence on the procedural and substantive criminal law of member states.

The harmonization of national criminal justice systems with the Union's criminal law instruments in the field of criminal law, provided for by the Treaty of Amsterdam, has often encountered difficulties and limitations by numerous obstacles imposed by national legal systems. The measures for the harmonization of criminal law proposed by the EU institutions were perceived as encroaching on the sovereignty of member states, causing conflicts with national legal traditions, and were accompanied by resistance and non-acceptance of changes in national criminal justice systems. The method of decision-making within the third pillar, primarily in the EU Council, in a large number of cases resulted in lengthy negotiations on numerous instruments, occasionally leading to very limited harmonization, or prolonging and even breaking off negotiations (Mitsilegas 2009, 92).

### **3. Criminal jurisdiction of the EU in accordance with the Treaty of Lisbon**

Before considering criminal jurisdiction after the entry into force of the Treaty of Lisbon, it is necessary to present briefly the most significant changes it introduced. The Treaty of Lisbon consists of two founding treaties, namely: the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (hereinafter: TFEU)<sup>10</sup>. The TEU contains general principles, institutional framework, and provisions on the common foreign and security policy, whereas the TFEU contains provisions on all cooperation policies and the functioning of institutions that were previously part of the EEC Treaty or Community law. TFEU is the legal successor of the EEC Treaty that abolished the European Community and

allowed the EU to take over its legal subjectivity and the status of a legal entity in internal and international relations (Vasilkov 2016, 105). TFEU abolished the pillar division of the Union characteristic of its foundation and development since the adoption of the TEU from Maastricht, and thus Community law or EC was abolished and became a part of the legal regime provided for by the TFEU. More precisely, the first and the third pillar became an integral part of the TFEU with a supranational (formerly communitarian) model of cooperation, and the second pillar was placed in the TEU, whereby intergovernmental cooperation still prevailed.

Criminal jurisdiction now derives from the provisions of Title V «An area of Freedom, Security and Justice» of TFEU, whereby Article 67 (3) states that the Union shall endeavor to ensure a high level of security through the approximation of criminal laws of the Member States. In accordance with Article 83 TFEU, the EU may adopt directives as the basic legislative acts of the Union for exercising criminal jurisdiction and adopts them in the ordinary legislative procedure (previously procedure of self-determination and decision-making by qualified majority). These directives establish minimum rules for the definition of criminal offenses and sanctions, namely serious criminal offenses with a cross-border dimension arising from the nature or consequences of those criminal offenses or from a special need to combat them on a common basis. The legal preconditions to the exercise of the Union jurisdiction are the following: a) particularly serious criminal offenses listed in paragraph 2 and b) cross-border criminal offenses. The criminal jurisdiction of the Union may be expanded; however, the decision to expand the list to other areas of crime may be passed exclusively based on a unanimous decision of the member states within the EU Council. Article 83 (1) TFEU contains a list enumerating 10 criminal offenses, i.e., particularly serious criminal offenses. In addition to concurrent jurisdiction with the member states, the Union has supranational competences to adopt legislation in the field of criminal law concerning the aforementioned offenses. The list of European criminal offenses, as referred to by the European Commission, includes terrorism, human trafficking, sexual exploitation of women and children, illegal drug trafficking, illegal arms trafficking, money laundering, corruption, counterfeiting, high-technology crime, and organized crime<sup>11</sup>. The cross-border or international

<sup>9</sup> Case C – 105/03, Criminal proceedings against Maria Pupino, (2005) ECR I -5285.

<sup>10</sup> Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, OJ C306/1, 2007.

<sup>11</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, «Towards an EU Criminal Policy: Ensuring the effective implementation of EU policies through criminal law», COM (2011) 573 final.

dimension of those crimes includes perpetrators, individuals, and criminal groups whose «modus operandi» does not recognize the national borders of the member states or third countries. Furthermore, the list is to be expanded with new crimes by the unanimous decision of the EU Council and prior consent of the European Parliament.

With the development of the criminal jurisdiction of the EU, the Lisbon Treaty accepts and recognizes the fundamental differences between national criminal justice systems. The legal framework after the entry into force of the Treaty of Lisbon allowed the EU institutions and member states to work closely together on a clear basis for creating a coherent and consistent EU criminal law that will effectively and simultaneously protect the rights of victims, suspects, and accused<sup>12</sup>. This goal has been achieved by the introduction of qualified majority voting and abolishment of unanimity in the EU Council, thus ending the period of domination and conditionality of individual member states, strengthening the role of the European Parliament as a co-legislator, and enabling full judicial control of the Court of Justice of the European Union in the area of criminal law. In addition to strengthening the role of the European Parliament, rather than explicitly protecting the interests of member states in the EU Council, the role of national parliaments that pass an opinion on legislative proposals and play a decisive role in monitoring compliance with the principle of subsidiarity, is now significantly stronger. Essentially, the principles of subsidiarity and proportionality governed by national parliaments protect the national interests of member states from excessive interference of supranational legislation in their legal systems and thus limit the expansion of jurisdiction and legislative regulation of certain areas by the Union.

It should be noted that the member states within the EU Council are not in a completely subordinate position regarding the adoption of criminal law legislation. Each member state may use the so-called «emergency brake» in cases where the proposed legislation affects basic aspects of its national criminal justice system and thus forward the proposal for the adoption of legislation to the European Council (Heads of States and Governments) for decision.

Criminal law is an instrument of coercion that restricts the human rights and fundamental freedoms

of suspects and accused persons. Therefore, it is of crucial importance to respect the Charter of Fundamental Rights of the European Union that imposes certain limits on the action of the Union and its Member States within criminal law and has become legally binding since the entry into force of the Treaty of Lisbon.

Currently, a large number of theorists and jurists point out that by the manner of establishing criminal jurisdictions of the Union the Treaty of Lisbon actually establishes the legal basis for the creation and development of EU criminal law (Mitsilegas 2016, Klip 2016, Diez 2015, Miettinen 2014, Gilmore 2008). Namely, if we draw a parallel with national criminal justice systems, it is obvious that the content of supranational criminal jurisdictions of the Union (Article 82 TFEU) reflects contours of substantive EU criminal law (definitions of crimes and sanctions) and EU criminal procedure law (mutual recognition of evidence, the rights of persons in criminal proceedings, and the rights of victims), with the explicit establishment of the jurisdiction of the Union over certain serious criminal offenses representing the basis for the emergence of a special part of the Union criminal law. Thus, criminal law becomes an independent common policy of the EU, whereas the Union acquires its autonomous, special jurisdiction, and not only a functional criminal jurisdiction intended to support certain policies of the Union with criminal measures. Unlike in the previous period the Union is now authorized to independently initiate, propose and with qualified majority vote adopt supranational criminal law norms together with the member states in the EU Council, whereas not only provide ancillary or complementary criminal protection to other policies of the Union.

### Conclusion

The emergence and development of the criminal jurisdiction of the EU emerged and developed in two gradual processes occurring at different periods of time. The first criminal jurisdictions were developed within the framework of community law. The parallel development and the initiation of the period of delimitation of jurisdiction between the Community and the EU in determining the type of penalties and prescribing criminal sanctions for the protection of certain policies occurred after the adoption of the EU Treaty of Amsterdam.

With the entry into force of the Treaty of Lisbon and the abolition of the EC, criminal jurisdictions

<sup>12</sup> EPRS | European Parliamentary Research Service Study. Unlocking the potential of the EU Treaties, An article-by-article analysis of the scope for action. [http://www.europarl.europa.eu/RegData/etudes/STUD/2019/630353/EPRS\\_STU\(2019\)630353\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2019/630353/EPRS_STU(2019)630353_EN.pdf).

have become an integral part of the new legal order of the Union and have gradually evolved towards a separate EU criminal law. The establishment of competencies for determining the definitions of 10 serious criminal offenses accompanied by the regulation of the area of respect for human rights indicates that the creation of supranational criminal law can be expected in the further process of integration. Such developments are not supported by the member states which tend to prevent the transfer of criminal jurisdiction from the national to the supranational level by all available means.

A conflict between the member states and the EU over the scope of criminal jurisdiction or the existence and the development of the contours of limited substantive criminal and procedural law of the EU is certainly inevitable in the near future. These branches should be complementary, ancillary, and linked to national legal systems, including judicial systems which by the substantive application of the norms of criminal law deriving from the Treaty of Lisbon allow the Union and the Member States to act jointly to combat serious cross-border crime.

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