

# **Communitarization of the EU third pillar today and according to the Lisbon Treaty**

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## **Resumé**

In this paper I tried to describe and analyze the developments of the dynamic evolving area of police and judicial cooperation in criminal matters, which although still entailed within the primarily intergovernmental framework of the so-called third pillar of the EU, has been constantly a progressively influenced and more and more governed by the Community principles, rules and mechanisms.

As a good evidence of this process, the extensive case-law of the ECJ is remembered, starting with *Pupino* judgement transposing indirect effect and the principle of loyal cooperation into the third pillar and finally pointing to the *Environmental Crimes* and *Ships source pollution* judgements of the ECJ on Community competence over certain aspects of criminal law.

Then the large novelties in this area of police cooperation and criminal matters under the Lisbon treaty are introduced. The new role of the key institutions (the Commission, the EP, Council, the ECJ and national parliaments) as well as the mechanisms of functioning of this area (including co-decision with qualified majority voting and direct effect) are described and analyzed.

Finally, illustrating some of the problems of the current situation in both procedural and substantive criminal area on two pieces of legislation (*procedural rights in criminal proceedings* and *criminal sanctioning of the employers of the illegally-staying third country nationals*), conclusions are attempted to be drawn as to the possible advantages, respectively disadvantages and risks of the newly introduced framework, while emphasizing the special characteristics (such as mechanisms of *emergency brake* and *enhanced cooperation* in two variations) of the new arrangements which might lessen the future risks of undesired unification and centralization of criminal matters at the Union level.

At the very end, the questions are raised as to the future exercise of the completely new mechanisms. The success or tragedy (or most realistically something in between) of the development of criminal area within the Union will namely depend on the quality and activity with which these new powers will be performed by the respective actors (i.e. Union institutions and national parliaments as well).

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