

Justice and Home Affairs Policy

European Justice and Home Affairs policy (JHA) aims to fight criminal activity that crosses national borders through a combination of *intergovernmental* cooperation between member states and *supranational* institutions run by central EU bodies. It promotes the principle of *mutual recognition* of different legal codes within the EU and is having the effect of making member states' legal systems more similar. It is seen as one of the most controversial areas of EU policy because of the importance of criminal law to national sovereignty.

History

The opening of borders after the Cold War led to a rise in trans-national criminal activity across Europe. Human trafficking, illegal immigration, drug trafficking and terrorism are all crimes that now operate beyond national boundaries. In response to this, the Maastricht Treaty (1992) created the JHA as the '3rd pillar' of the EU, under the remit of the European Council. This designated asylum policy and immigration, as well as judicial, customs and police cooperation, as 'areas of common interest'. The Treaty of Amsterdam (1997) went further, giving EU institutions full control over some areas of JHA policy, such as asylum and immigration.

The same Treaty also brought the Schengen Convention into EU law, which has served as an impetus for further cooperation on JHA matters. The Tampere European Council (1999) established supranational bodies such as the European Judicial Network (EJN) and Eurojust to help tackle cross-border crime. In December 2001, EU leaders agreed to create a European Arrest Warrant (EAW) and, in 2006, a European Evidence Warrant (EEW) was also approved. From 2009 The Lisbon Treaty will extend the EU's power on JHA further because it will give the European Court of Justice jurisdiction over JHA for the first time.

How does JHA Policy work?

JHA policy is currently being guided by a document released by the Commission in May 2005 for the years 2005-10, called the Hague Programme. This prioritises creating a Common European Asylum System and a Common EU Immigration Policy, to effectively police the new external borders of the EU, as well as increasing the cross-border availability of police information.

Co-operation on JHA has gradually developed from a loose intergovernmental network to a system of centralised bodies and shared data. Such bodies include Europol, which helps with cooperation in international investigations and has the power to request criminal investigations within member states, and Eurojust, which works to improve cross-border co-operation between prosecutors and courts. There are also proposals for a European Public Prosecutor with powers to arrest, deport and imprison suspects.

The EU also maintains several Europe-wide databases including, for example, Eurodac, which stores the fingerprints of asylum-seekers to prevent abuses such as *asylum shopping* across national borders. In June 2007 the Prüm Treaty (2005) was incorporated into EU law. This facilitates a pan-European network of police databases for use in criminal proceedings.

Alongside central bodies such as these, domestic courts can invoke EAWs or EEWs for criminal acts that carry a custodial sentence of at least 12 months. This is intended to speed up extradition processes and reinforces the wider principle of mutual recognition in cases of serious crime.

Arguments

For

- Cross-border crime can only be countered with cross-border criminal legislation, especially when borders are as open as across the EU.
- JHA ensures a basic standard is maintained across the EU in important areas of policy.

Against

- The rule of law is one of the most important sovereign rights of a nation and the EU should not have jurisdiction over it.
- National police forces best know their own countries and cultures: external interference and centralised bodies could hinder effective criminal investigations.

Quotes

'The European Community has the power to require the member states to lay down criminal penalties' European Court of Justice, Sept. 2005

'What we discuss and eventually decide in the EU on [justice and home affairs] issues will have a direct impact on your daily life.' Franco Frattini, EU Justice, Freedom and Security Commissioner, 2004-2009

Technical Terms

Intergovernmental: a form of international organisation where governments work together to achieve shared goals.

Supranational: a form of organisation through which decisions are made by international institutions, not by individual states.

Mutual Recognition: that one member state must recognise laws that exist in another.

Asylum shopping: the practice of applying for asylum at a second EU country after being rejected a first time.

Links

http://www.europa.eu.int/pol/justice/index_en.htm
<http://www.eurojust.eu.int/index.htm>
<http://www.statewatch.org/>