EU-Russia cooperation in Justice and Home Affairs
in the context of Enlargement

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Avant - propos

Cette contribution, élaborée dans le prolongement d’une conférence donnée par son auteur à l’Université catholique de Louvain en automne 2001, constitue une synthèse critique de la nature et des problèmes de la coopération UE - Russie dans le domaine de la Justice et des Affaires intérieures. Les facteurs qui rendent cette coopération à la fois utile et nécessaire sont identifiés dans les domaines spécifiques du contrôle des flux migratoires et de la coopération policière contre les diverses formes que prend le crime organisé.

Olga Potemkina livre ici une analyse, dans le contexte de l’élargissement, des obstacles concrets à la création d’un ‘espace européen de liberté, de sécurité et de justice’, et procède à l’examen critique des avancées réalisées dans la coopération. Les mérites de la coopération régionale sont ici mis en lumière, notamment les cas de la Dimension Septentrionale de l’Union européenne et des ‘Eurorégions’. Une attention toute particulière est portée à l’enclave russe de Kaliningrad, au sujet de laquelle les questions de visas et de lutte contre la criminalité n’ont toujours pas trouvé de réponse définitive. Devant l’urgence des mesures à prendre, l’auteur plaide pour une accélération du dialogue et une concrétisation des projets élaborés par l’Union européenne et la Russie.

La Chaire Interbrew-Baillet Latour se félicite d’avoir pu accueillir Madame Potemkina au sein de l’Université catholique de Louvain, et, plus encore, de contribuer à la diffusion d’analyses et de vues qui, de Moscou, enrichissent la réflexion sur un sujet plus que brûlant à la veille du prochain élargissement de l’Union.

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It is beyond doubt that the fight against cross-border crime, illegal migration, as well as partnership for border security should become top priority matters in the EU-Russia relationship. Meanwhile, the cooperation in the field of Justice and Home Affairs (JHA) up to now has been developing very slowly. One of the reasons is that the sphere is quite new in the EU-Russia cooperation agenda. It is always difficult to move from Action Plans and concepts to their implementation. Nevertheless, the results of a much-expected EU-Russia summit of October 3rd 2001 were disappointing. The High-level working group on terrorism with the Russian law enforcement agencies' representatives and those from the EU Commission was supposed to be created at the Summit. The mission of the group was declared as a hot line interlocutor between the EU Commission and the Security Council of the Russian Federation.

But nothing of that kind happened. Of course, the Joint Statement against terrorism was adopted. This is a very important step. However, the criminality could not be defeated by declarations only. The JHA is among the few fields in the EU-Russia relations where integration could be desirable and deeper. The institutional framework to fight organized crime has been created. It is high time to start concrete full-scale actions in that direction.

In compliance with the cross-pillar structure, the matters of the EU-Russia cooperation in Justice and Home Affairs fall into two parts:

- visa and border security policies
- police cooperation against organized crime

These fields, of course, overlap. However, this distinction makes it easier to understand the nature and problems of the cooperation.

1. Schengen, migrations and border security in an enlarging Europe

It seems obvious that two factors - internal and external - have caused the very rapid evolution of the EU border control and immigration policy. The logic of a single market presupposed the removal of internal borders and, at the same time, a strengthening of the external ones. After 1989, fears of the immigrants' influx from the former USSR and the Central and East European countries emerged. It was at this time that «temporary protection» provisions were introduced in the Member States as a response to the massive flow of refugees from Yugoslavia, and when the appeals for burden sharing began arising.
intensively. Historically, Germany used to receive a significant number of refugees from Central and Eastern Europe, being the nearest state for them to become an obvious place of destination. Besides, asylum seekers from the Soviet Union and the other socialist countries have favoured preferential treatment in Germany; they were not expelled even if their asylum applications were refused.2

Russia and the Central and East European countries, by the beginning of the 1990s, had become both receiving and exporting migrants countries as well as states of transit. Liberalisation of social life in Russia and the destruction of a former political system have entailed perceptible population movements inside ex-USSR with Russia as a place of destination. At the same time, Russia as well as the Central and East European states began to function as transit countries, where a large number of migrants from the poor developed Asian and African states (Afghanistan, Iraq, Somalia) arrived. An interview with them in the middle of the 1990s revealed that only 25% expressed their desire to settle in Russia. An overwhelming majority of those who had arrived from the Middle East and Africa were eager to move to the West. They tried to use Russia, hoping that it would be easier to get a refugee status here and then to continue their route. Only a small part of transit migrants wished to be registered on arrival. The majority preferred illegal way of travelling through Russia and the Central and East European countries to the Western Europe.3

In the beginning of the 1990s, the Member States began to think intensively about securing their eastern borders. A huge inflow of immigrants was expected. The Central and East European countries found themselves in a very difficult situation. As a result of the visa regime liberalisation and the signing the Geneva Convention of 1951, and the Protocol of 1967, they became, like Russia, receiving and exporting migrants countries. They had to receive newcomers from the Asian and African states striving to the West. The foreign populations in the Central and East European states have notably increased because of transit, illegal migrants and refugees. For instance, in the Czech Republic, the number of non-nationals had grown by the middle of the 1990 to 200,000.4 Slovakia, Poland and Hungary were also accepting a high inflow of immigrants. About 70% of asylum seekers and refugees reached Germany through Poland and the Czech Republic.5

An amendment made in 1993 to Art. 16 of the German Basic Law provided for a sharp decrease - 60% - in asylum application, which could be noticed already within a year.6 The asylum seekers whose applications were refused were sent to the «safe» countries. Thus, a wide buffer zone emerged around Germany, and the EU as a whole, including several Central and East European countries, the Baltic States and Russia, Belarus, Ukraine and Moldova which comprise a single transit system. In the forthcoming enlargement process of the EU, this system is fated to gradual disruption as soon as the candidate countries are admitted to the EU. In the long term, the buffer zone will shrink, and Russia will have to share its burden of receiving transit migrants only with Ukraine, Belarus and Moldova.

2 A. BOCKER and T. HAVINGA (Eds.), Asylum Migration to the European Union: Patterns of Origin and Destination, 1997, Nijmegen, Institute for the Sociology of Law, p. 28
4 Commission Opinion on the Czech Republic’s Application for Membership in the European Union, 15/07/1997, see http://www.europa.eu.int/comm/enlargement
So it was obviously pressure from outside the borders that made German Chancellor Kohl and successive Interior Ministers insist on communitarizing asylum and immigration policies, as early as 1989, during the Intergovernmental conference that preceded the Maastricht Treaty. The idea did not take full shape in the Treaty: «an intergovernmental approach in the communitarian sauce» was finally chosen. At that time, a desire to preserve sovereignty in elaborating JHA policies for the Member States happened to be stronger than their concerns for the consequences of continuing migration influx. The problem was solved only by the IGC in '96 when partial communitarization of the third pillar, together with the «Schengen acquis» incorporation into the Amsterdam Treaty, was considered as a significant element in the area of freedom, security and justice architecture. It seems that the Member States finally took this arduous and controversial decision in view of the coming enlargement to the East that demanded to secure external borders. According to Article 8 of the Protocol to the Amsterdam Treaty, Schengen acquis as well as further measures taken by the institutions within its scope, were to be accepted in full by all the applicant countries. The Tampere Summit in October 1999 confirmed this principle.

The consequences of this full acceptance were realised in the process of pre-accession talks. The candidate states were expected to prepare to change the trade and visa regime with neighbouring countries. It appeared to be very painful for Hungary, for example, to fence off Hungarian minorities in Slovakia, Romania, Ukraine and Serbia. For instance, Hungary’s adoption of the Schengen acquis could break its treaty commitment with Romania for cross-border links of minorities. Moreover, the EU and its Member States risk violating their own international agreements (under the 1990 CSCE Copenhagen Document, the 1992 UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, and the Council of Europe’s 1995 Framework Convention on the Protection of National Minorities). The perspective of constructing the wall between Poland and Belarus, and between Poland and Ukraine, threatened their cross-border trade and was not met with enthusiasm by the resident population on both sides of the border.

Visa policies and cross-border problems, as well as the situation of Russian minorities in the Baltic States, were included, among other Russian concerns in the view of enlargement (external trade infrastructure, trade preferences, standards and certification, competition policy etc.), into the list handed to the European Commission by the Russian government in January 1999.

The Finnish border is currently the common border with Russia. The cross-border cooperation between Finland and Russia is being challenged by introducing strong barriers, «security filters». The Republic of Karelia and the Leningrad oblast are the first Russian regions to be affected by their border with Finland becoming a Schengen one. It is true that cooperation in the field of fight against criminality, drug trafficking, prostitution networks and illegal migration is developing. Moreover, the concept of «Euroregion Karelia», including three Finnish border communes and Karelia itself, might be an important step for further cooperation aimed at building multi-industrial partnership in economy, ecology, culture, science and tourism. It is clear that the projects of this kind should be based upon a

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special cross-border and visa regime. The situation described could also be applied to regional cooperation: Poland-Ukraine-Belarus-Russia, Poland-Kaliningrad oblast-the Baltic states-Northern Russian regions, Pskov and Leningrad oblast, which are referred to the «Northern Dimension». Kaliningrad is of special concern to Russia, as it is believed to be used as a pilot project in the course of the EU-Russia cooperation in the XXIst century.

In the coming process of enlargement two other issues are arising. The Polish border is becoming an external border of the EU, and it is drastically affecting Russia even though they are not direct neighbours. But Russia’s relations with Ukraine and especially with Belarus, in view of deepening integration between the Russian Federation and Belarus, are being touched. The issue of cross-border trade has already arisen while elaborating pre-accession strategy. In 1997 Poland had to introduce a visa regime with Belarus, and that was not praised at all by the population of the border regions.

The second phase of the EU enlargement to the East is operating upon Kaliningrad oblast. Including Lithuania into the Schengen area means that Kaliningrad becomes a Russian enclave inside the European Union. To connect Kaliningrad with the rest of Russia, a transport route through Lithuania is needed, with special visa conditions for its population. Otherwise it appears that to travel by land to Russia, their native country, the Kaliningraders would have to ask for a visa. Besides, the oblast depends much upon cross-border trade with Poland and Lithuania. In case there is no special EU-Russia Agreement or Protocol concerning Kaliningrad, people will suffer from unemployment in the Western regions of Lithuania, Northern regions (voevodstva) of Poland, not to speak of the Kaliningrad oblast itself. “In order for Kaliningrad to participate in the EU economic space successfully, traditional statist conceptions of borders, and political space more generally must be significantly downplayed in favour of a more ‘fuzzy’ approach, wherein cross-border and international engagement dominates over exclusion and control.”

However, being a large seaport, Kaliningrad has all the characteristics of a harbour: a high level of criminality and drug trafficking, aids epidemics, organised prostitution, as well as clandestine migration. Actually, the Northern Dimension programme acknowledges the necessity to render technical assistance to Kaliningrad «to fight organised crime». This perception, at the very moment of the EU-Lithuania accession negotiation talks, stimulated Lithuania’s decision not to replace the temporary visa-free travel regime by a five-year visa-free travel period with the Russian Federation.

A Common strategy of the European Union for Russia is considered «very crucial to maintaining peace and security in Europe and beyond, and to meeting common European challenges» Special emphasis in the Common Strategy is laid upon trans-border cooperation (paragraph 8). The prospect of prolonging the EU-Russia common border is believed to become a possibility of leveling up cross-border and regional cooperation to the standards achieved in the framework of «Euroregions». In this context, special attention is focused on border and visa regime.

Is it possible at the same time to promote cross-border cooperation with a special visa regime and to preserve Schengen acquis as it is?

It seems rather obvious that building a European fortress by spreading the Schengen acquis into the territory of the Central and Eastern European States threatens to destroy natural regions which include Western and Northern parts of Russia. Special annexes to the Schengen Accords are needed as well as the establishment of special border regimes. On the other hand, it is clear that the issue of Kaliningrad as an exclave of Russia in the European Union is much more complicated from the point of view of establishing a special border regime, because the threat of penetrating crime and illegal migration in the EU is quite real. To be pragmatic, what was the reason of building a European fortress if several creep holes are left in it? Introducing special visa rules for border regions of Russia might single them out from the rest of the Russian territory. Thus, enhanced cooperation or flexibility, which was suggested by the intergovernmental conference of 1996, could be applied not only to the EU, but also to cross-border cooperation of its regions with Russian ones. It might include a common strategy for fighting illegal migration and criminality while facilitating conditions for business, trade, and scientific and cultural exchange. To some extent, a suggestion that Sweden put forward for consideration during its presidency of the European Council-to associate Russia for third pillar matters—could be regarded as an example of enhanced cooperation. At the same time, the consequences of this hypothetical decision are rather questionable for Russia, as Russia is not considered as an associate on economic policies, but only on “soft” security risks. Actually, the Tampere Summit in October 1999 expressed its support for regional cooperation against organised crime involving the Member States and third countries bordering on the Union. In this case the concept of enhanced cooperation seems viable. Several dimensions of enhanced cooperation can be plainly defined: the Baltic Sea, the Balkan region, the Adriatic and Ionic area, and the Mediterranean.

It is true that the current situation makes Russia concentrate mainly on internal migration movements - refugees and forced migrants who have been moving to Russia from the former Soviet republics. «Temporary protection» provisions are believed to become widely used towards persons who would like to stay in Russia until the situation in their native country normalizes. By signing the Geneva Convention (1951) and the Protocol (1967), the Russian Federation took responsibility for accepting persons under criteria established by these documents. In the draft programme, the willingness of Russia is expressed to cooperate at the international level in the field of regulation of migration influx, particularly the fight against illegal migration, which is always linked with criminality, drugs, human beings trafficking, etc. A civilized integration of the country into the international labour market is planned in the draft programme as a long-term perspective. In this context the need for developing trans-regional cooperation is again emphasised. Another aspect of border regions relations is mentioned in the programme: communications between Russians who live abroad and their relatives in Russia. The Russian government declares its desire to facilitate the crossing of borders for those persons. Thereby the problem of the Russian minority in the Baltic States arises.

Russians form 28,14% of the whole Estonian population (there are 65,11% of Estonians) and 32,38% of the population in Latvia (55,53% are Latvians, though there are few Russians in Lithuania - 8,2%). To be precise, they are not considered as national minorities in the Baltic States, but rather as first generation immigrants. This means that they will be treated as immigrants after the Baltic States

enter the European Union; first Estonia, and after some time, Latvia. Russians - non-nationals of the EU, will be denied the right of free movement in the EU as well as all the other rights which EU nationals favour. Furthermore, in addition to the restraints in visiting their relatives, it becomes clear that the Russian government’s concerns for their fates is quite limited. The case is similar to the situation of the Hungarian minorities in Slovakia, which has already been mentioned. It should of course be stressed that both the Latvian and the Estonian governments, not to speak in this context of the Lithuanian authorities, have demonstrated their desire to fulfil the Copenhagen political criteria. Certain improvements of the situation could be noticed - for instance concerning voting rights for Russians in Estonia and abolishing the «window system» of naturalization in Latvia - although the procedure of receiving citizenship remains very complicated, and for many elderly people quite impossible. However, depriving Russians from the Baltic States of a possibility to travel easily to Russia could bring discouragement to the population, which would inevitably influence political and social stability on both sides of the border, as well as relations between Russia, the Baltic States and the EU. On the contrary, the Baltic States governments could find Russians to be a very loyal population in case they are endowed with the rights of nationals.

So, is there a way to overcome borders that have become new division lines in Europe?

More flexibility rather than rigid implementation of the Schengen acquis should be applied in forming the relation between the EU and ‘the direct neighbourhood’. This means providing border facilities and creating special border regimes. Thus, the model of ‘small border traffic’, which used to be applied inside the EU border regions, seems of great value. It was mentioned in the EU Commission Communication for Kaliningrad as one of the practical solutions to the situation. The model could be spread to many border regions so as not to deprive its populations from economic, cultural and family links. ‘Small border traffic’ presupposes a special kind of visa regime in the area of about 25 kilometres in radius. Of course, geographic, as well as political, social and economic environment should be taken into account for every case. For example, “the Estonian practice of issuing visas free of charge/for a minimal fee for citizens with family contacts on the other side of the border was seen as a potential model to export along the whole future EU border.”17

2. Can Russia join the “European area of freedom, security and justice?” Police cooperation between the EU and its ‘direct neighbourhood’

Returning to the questions of visa policies and Schengen borders, it could be stated that the construction of the “European area of freedom, security and justice” presupposes that Russia and the other neighbouring states are excluded from the EU area of freedom, security and justice.

Does this mean that police cooperation to fight against organized crime between the EU and the bordering states is doomed to failure? Is there any means to join efforts, being on different sides of the new dividing lines in Europe?

It is time to think over some kind of special mechanism which could provide for developing common initiatives in the fields where cooperation is absolutely necessary, all the more in Justice and Home affairs where the institutional framework for the EU-Russia relationship has been created.

Several strategic documents have laid the groundwork for cooperation. The Partnership and Cooperation agreement (PCA) between the EU and the Russian Federation signed in 1994 declared the cooperation between the Parties to prevent criminal activities, including money laundering and drug trafficking, to be a matter of top priority. In June 1997 the Amsterdam Council adopted The European Union Action Plan, that called for tackling organized crime, emphasized the importance of closer cooperation and developing relations with Russia in the fields of mutual concern. The European Council meeting in Cologne provided for acceleration of the process by endorsing the EU Common Strategy on Russia. The need was first announced there to establish a plan focused on common action with Russia in the fight against organized crime, including actions to combat corruption, money laundering, trafficking in drugs, human beings and illegal immigration. Simultaneously, similar actions were being worked out by Russia, which resulted in adopting the Medium-term strategy for the development of relations between the Russian Federation and the EU (2000 to 2010). Cooperation in the field of law enforcement and establishing operative contacts with EU bodies in fighting trans-national organised crime was regarded as one of the Strategy key elements. The mentioned documents paved the way for the European Union plan on Common action for the Russian Federation on combating organised crime. The Helsinki Council approved it in December 1999\(^\text{18}\), and the EU-Russia Cooperation Council approved it on April 10 in Luxembourg. It is worth mentioning that the Helsinki plan was blueprinted with regard to several important documents both of the EU and Russia: the European Union drug strategy (2000-2004) and the special Federal programme to intensify the fight against crime (1999-2000) approved by the Government of the Russian Federation in March 1999.

The Action Plan emphasized general principles and main areas of cooperation. Improving international judicial cooperation is considered a top priority task. To ensure that a legislative framework suitable for such cooperation exists, several efforts are demanded: adoption of appropriate legislative measures, and ratification and full implementation of the international agreements of combating organized crime. In this sense, European Conventions are a powerful instrument for the JHA cooperation, namely those against money laundering and drug trafficking.

Another field of mutual interest is law enforcement cooperation. Exchange of technical, operational and strategic information between the appropriate law enforcement agencies is planned as well as regular meetings of experts and training courses for the law enforcement personnel. Working contacts between Europol and the competent Federation agencies are to be developed in the framework of the Europol Convention.

There is much in common between the Action Plan and the Pre-Accession Pact on Organized Crime\(^\text{19}\) concluded by the EU’s Justice and Home affairs Ministers Council with the Ministers of the candidate countries in May 1998. However, the aims of the EU-Russia documents and those of EU-candidate countries differ. Thus, the methods for implementation of programmes are different for the candidate countries and Russia. Technical assistance programmes are mentioned in the Action Plan. It could be very important to think over Russia’s deeper involvement in various training, exchange and study programmes that exist in the EU and member states, covering the candidate countries as well, namely GROTIUS, OISIN, ODISSEUS, FALCONE, OCTOPUS II. This could be done in the framework of a newly created mechanism for the ‘direct neighbourhood’ engagement with the JHA.

\(^{18}\) Official Journal C 106, 13/04/2000

\(^{19}\) Official Journal C 220, 15/07/1998
Russia’s participation in a new project of the European Commission, the Association of European Police Colleges and ten Member States “Curriculum” (launched in October 1999 to assist the applicant states in fighting drug trafficking, money laundering, car theft, illegal immigration, trafficking in weapons and radioactive materials) could be very valuable for all partners. What are the main fields in the fight against organized crime where police cooperation is the most urgent?

The problems of flee of capital and money laundering are obviously the main concern of the law enforcement agencies in Russia as well as in the Member States. They were the key questions at the Global international forum for cooperation against corruption (The Hague, May 2001). It was specially outlined in the report of the Russian Federation General Public prosecutor Mr. Ustinov. He stressed that international cooperation has become one of the priorities of the Russian anti-corruption policy. 20-25 billion USD are illegally transferred from Russia annually. According to the Russian experts’ estimates, the annual amount of currency transfers abroad exceeds the sum of credits and humanitarian assistance granted to Russia by the international community. Various methods of currency transfer are used by criminals: from cross-border transporting of banknotes by persons, smuggling of raw materials, energy and precious metals, to complicated schemes of illegal export and import trading and financial operations. Off-shore zones have been used very intensively to transfer and legalize criminal capitals. According to the Russian Federal Tax Police Service officials, there is hardly any example of a civilized off-shore firm.

Of course, there is a serious problem of law harmonization. There are no comprehensive laws and measures corresponding to world standards of prevention against financial systems for money laundering. The Russian authorities have recognized vulnerability in the money laundering issue and taken several measures in this direction. The Central bank of the Russian Federation distributed several instructions to identify potentially suspicious movements of capitals abroad. The Central Bank is trying hard to make Russian banks produce their own analysis of the risks and decide which transactions seem suspicious. However, there is hardly any bank that so far has succeeded in this direction.

Besides, the Russian authorities have to recognize that Russian custom requirements do not correspond to international standards and must declare their readiness to straighten the situation. The licensing procedure is to be reviewed together with that of the license deprivation. A stricter control is required over the currency exchange offices as well as over ‘one-day’ firms which appear, conduct some illegal operations, and then disappear very quickly.

Russia first criminalized money laundering in art.174/1/ of the new Criminal code in 1997. According to this item, in 1998, 1003 cases of money laundering were registered and investigated and 745 in 1999; 745 matters were brought into court in 1998 and 679 in 1999; 15 indictments were passed in 1998 and 21 in 1999. This wide discrepancy between the amount of investigations and indictments could be explained by the very limited effectiveness of the existing legal framework. The international expertise came to the conclusion that the text of the item should be brought into line with the Strasbourg Convention of the Council of Europe, which was signed by Russia in 1999, but has still not been ratified. The experts stressed that the emphasis should be placed on investigating and bringing into court the matters of money laundering resulting from drug trafficking, organized crime, and so on.

Customs criminality is another urgent problem. Large financial flows and high profits of the custom business could be compared with those from the arms and drugs trade. This is an attractive factor for numerous transnational criminal groupings. The existing Russian laws of custom are far from
being perfect; neither are the technologies for custom control and custom formalities. The State Custom Committee of the Russian Federation is elaborating several measures to improve the situation.

Cooperation in extradition should be mentioned as a case of high importance. There are serious difficulties in this area. There are several examples. First, the so-called ‘Geveleau case’ where a French citizen managed to escape from punishment. The second is a case in which a Spanish citizen suspected of organization of embezzlements by the Media-Most company was not extradited by the authorities. To summarize the examples, it could be noted that cooperation in extradition policies is more effective when based upon criminal cooperation and not on politics.

By preparing and signing re-admission agreements between the neighbouring states, the main routes of illegal migration and human trafficking from Asia can be blocked. They pass through Russia, Ukraine, and Moldova to Rumania, Bulgaria and Greece. But another problem arises: if the ‘transit states’ sign re-admission agreements, are they able to deport all the illegal immigrants delayed at the EU and sent back? The answer is obviously negative. Thus the problem of burden-sharing re-arises. If a state receives its own nationals back from the country where they were exposed to extradition, that could be considered a normal practice. But what should a state do with the transit migrants? It might happen that they are extradited back to a transit state, which itself is not able to return them to a place of origin, and finally they penetrate again into the country of their destination which extradited them to a transit country. This situation of a vicious circle means that quite new mechanisms for collaboration in extradition should be elaborated.

The above-mentioned EU-Russia summit of October 2001 declared police cooperation a key matter in the field. Russia and the European Union decided ‘to consider the conditions and detailed procedures for an exchange of information on:

- the activities and movements of individuals or groups belonging to terrorist networks or maintaining links with such networks;
- tickets of dubious authenticity;
- supplies of arms, explosive, or dual-use goods;
- new forms of terrorist activities, including chemical, biological or nuclear threats

The role of the exchange of information as a key factor in the EU-Russia JHA cooperation is obvious. It is clear that data sharing might be very helpful as demonstrated by the post 11th September situation. But it should be stressed that the process could be successful only if it is put upon a regular basis and extended to sharing knowledge and information. At the same time it should be supplemented by protecting the data’s security. To achieve a goal, special criteria in elaborating an inclusive data security policy should be formulated by the European Union and Russia as well as the other neighbouring countries.20

A question of mutual trust in police cooperation thus could not be neglected, and what is more, one should speak about ‘the culture of trust’ in the balance between data sharing and data protection, as well as in other fields of police cooperation. It has been noticed already that the scale of trust is higher at the lower level of cooperation, that is, at the operational level between professionals and colleagues. While the ‘high policies’ level is discussing various perceptions and concepts of ‘terrorism’, the ‘lower

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level’ has to fight against real terrorists who are not expected to wait until the concept definition suits everyone.

3. Conclusion

This model could be applied as a general approach to the EU-Russia JHA cooperation as well as to the EU-Russia relations as a whole. As already stated, the process of the EU-Russia JHA cooperation has been developing in a very slow way, without taking into account the urgency of the dialogue, and hence of specific actions. Measures ‘to combat money laundering and drug trafficking, mutual administrative assistance in custom matters and in all other relevant areas’ are more discussed than realized. A lot is still to be done to strengthen the ties between Russian law enforcement agencies and Europol. The “Russian bureau” at Europol is still an idea, but not a reality. It is high time to move to practical engagement with the JHA while continuing conceptual discussions. Russia as well as the other neighbouring countries can join the “European area of freedom, security and justice” even if they are located beyond the Schengen borders. Being deprived of a possibility of ‘opt-outs’ of the British kind, it could cooperate in policing the common borders and in fighting against international organized crime. The internal reforms in Russia, including the administrative and judicial, should provide for achieving more equality, thereby turning cooperation into a partnership for security.

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