

# Tourism and Crime: key themes



**Edited by**

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## **Cross-border Cooperation in Criminal Investigations**

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# 8 Cross-border Cooperation in Criminal Investigations

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This chapter:

- ◆ Confirms that police and judicial cooperation in criminal matters still depends largely on a system of assistance upon request.
  - ◆ Reviews how, over the years, an extensive legal and organisational framework has been developed for the exchange of requests for mutual legal assistance.
  - ◆ Concludes that substantial police and judicial cooperation with regard to crimes involving tourists is seldom necessary. In most cases, the authorities of the country where the crime was committed are able to conduct the investigation and prosecution.
  - ◆ Considers exceptional cases where the tourist was the perpetrator but was able to return home before being apprehended or identified.
  - ◆ Provides an example of a recent promising development: the institution of joint operations with regard to public order policing of tourist areas and the reining in of drug tourism.
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## Introduction

Whilst on holiday abroad, tourists may become the victims of crime or commit crimes themselves. The police and the judicial authorities of the country where the offence occurs will usually conduct the investigation and prosecution. In some cases, however, concluding the case will require information from the authorities in the tourists' country of origin or further investigation on the part of these authorities.

This chapter concerns cross-border police and judicial cooperation in cases involving tourists, the term 'tourist' being taken in a broad sense. My definition includes not only tourists travelling abroad for a number of days but also those who do not stay overnight while visiting another country for purposes of recreation. With regard to police and judicial cooperation, this contribution will focus largely on mutual legal assistance. The topic of extradition I shall consider only briefly.

Throughout history, authorities of sovereign states or independent jurisdictions have always cooperated on an *ad hoc* basis in specific cases of cross-border crime. From the end of the 1950s onwards, the United Nations (UN), the Commonwealth of Nations, the Council of Europe, and the European Union (EU) developed an extensive legal framework for mutual legal assistance. This framework consists of a patchwork of conventions. I first address the most significant conventions adopted within Europe, and then focus on the legal framework for mutual legal assistance outside Europe. Both sections will be limited to multilateral arrangements. Countries may also have adopted bilateral treaties, but space restrictions mean that they cannot be discussed in the present chapter. Police and judicial cooperation still depends largely on a system of assistance upon request, the usual practice being that the police and judicial authorities exchange written requests for legal assistance within an established organisational framework. At the international level, Interpol, which operates a worldwide network of national bureaus for exchanging information between the police of different countries, is the best-known organisation. Other provisions are police liaison services and, particularly within the EU, Europol, the European Judicial Network (EJN) and Eurojust.

The next section of the chapter describes the organisational framework for law enforcement cooperation. The subsequent three sections address practical police and judicial cooperation with regard to tourism. They first give some examples of law enforcement cooperation with regard to criminal investigation involving tourists, and then address cooperation with regard to public order policing in places frequented by tourists and, lastly, police cooperation with regard to controlling drugs tourism in the Dutch border areas. Finally, some general conclusions are offered.

## **The legal framework for police and judicial cooperation within Europe**

Over the years, both the Council of Europe and the EU have developed a number of treaties, Council Acts, and Council Framework Decisions in order to enhance police and judicial cooperation.<sup>1</sup> This section presents the most important multi-lateral conventions:

- ◆ the European Convention on Mutual Assistance in Criminal Matters (1959)
- ◆ the European Convention on the Transfer of Proceedings in Criminal Matters (1972)
- ◆ the Schengen Implementation Convention (1990)

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<sup>1</sup> The Council of Europe is not to be confused with the European Council, the principal decision-making organ of the European Union. The Council of Europe was founded in 1949 with the aim of furthering European integration. It currently comprises 48 countries.

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