Summary, Conclusion and Further Recommendations

Based on the renewed commitment the ASEAN and the EU gave each other in pursuing stronger cooperation in combating terrorism and transnational crime, as well as the present structures of each one in tackling the same, the present study was mainly interested in knowing how mutual legal assistance in criminal matters could develop between and within the Association of Southeast Asian Nations and the European Union. This present study focused only on mutual legal assistance in criminal matters because the ASEAN does not presently have yet a regional extradition treaty among its member states that one could compare to the European Arrest Warrant of the European Union.

This notwithstanding, the present study mainly had five (5) objectives. The first one was to know the historical development of the ASEAN and the EU, including the historical development of their respective regions that influenced the establishment of these regional organizations, the historical development of the two regional organizations' international cooperation mechanisms in criminal matters, specifically on mutual legal assistance, and the respective legal frameworks applicable to these mechanisms. The second was to know the historical development of international cooperation in criminal matters, specifically mutual legal assistance, as well as the legal framework (including substantive and procedural provisions) for it in selected member states of the ASEAN and the EU, which includes a study of how a sample member state from each region implements mutual legal assistance through law and practical information (law in the books v. law in practice). The third was to compare and contrast the mutual legal assistance frameworks of ASEAN and EU on criminal matters with their respective member state frameworks by knowing the present state of the mutual legal assistance framework on criminal matters and its application in the ASEAN and the EU, including a study of how a sample member state from each region is implementing the same, formally and informally, through law and practical application. The fourth was to compare and contrast the ASEAN and the EU regional frameworks with each other, including a comparison of their respective historical developments, institutional frameworks, fundamental principles, norms, and practices, and their existing mechanisms of mutual legal assistance vis-à-vis how the same is implemented in their respective member state frameworks. Lastly,

the fifth objective is to evaluate, analyze, and anticipate the problematic issues and problems with respect to the respective frameworks and provide recommendations for improvement, harmonization, revision, etc., when appropriate, and whether there could be a (further) development of mutual legal assistance in criminal matters between and within the ASEAN and the EU.

With respect to the first and second objectives, it was learned that the ASEAN and EU are more alike than different with their respective historical developments. The regions in which these organizations have shared experiences and strange parallels – albeit sometimes they are found on different ends of the experience – that ultimately shaped the principles, ideals, norms, and beliefs each regional organization espouses. The historical development also dictated the development of each one's nature, thought and decision-making process.

In the same vein, this influenced their existing infrastructures, cooperation mechanisms, and criminal justice architecture. In line with this, EU has admittedly been able to create more sophisticated, detailed, and complex structures in fostering cooperation among its member states, including those related to international cooperation in criminal matters. Conversely, the ASEAN has yet to come up with an ASEAN extradition treaty whilst already having a treaty tackling mutual legal assistance in criminal matters.

Anent mutual legal assistance in criminal matters, which exists in both regional frameworks, one could look into the different substantive and procedural provisions of each. The present study utilized interviews and communications with practitioners and experts in the member states to gain insight on how mutual legal assistance and general cooperation occurs between them. Any information then gained from the abovementioned is used to meet the third objective of the study, which is to compare and contrast the regional frameworks and member state frameworks with each other.

It was discovered that member state frameworks remain true in general to the regional instruments on mutual legal assistance. They implement as much as possible to the letter the provisions of the ASEAN MLAT and the DEIO, respectively. Should there be nuances, differences, or additions to how the regional instrument is transposed and applied domestically, this was understandable given the differences in national legal systems, principles, and existing laws of each member state. This notwithstanding, member states and their respective practitioners, authorities, and experts, are able to run the mechanism smoothly in general. It was learned that

albeit there are discrepancies, unsettled issues, or overall lack of harmonization of laws, these never hindered the member states from effectively and efficiently working with each other. It helps that there are open channels of cooperation among authorities, which helps in solving any issue or problem that arises in relation to mutual legal assistance.

In connection with the third objective, the regional frameworks are then compared with each other to highlight certain issues as the fourth objective of the study. In evaluating the regional frameworks themselves for instance, one could observe a strange parallel situation between the ASEAN and the EU as regards their historical developments and how they developed their own principles, norms, and practices. Next, one could look into how they compared as regards their existing cooperation mechanisms, approach to regional security and international cooperation, and mutual legal assistance matters. Further in pursuit of the fourth objective, the member state frameworks vis-à-vis the regional frameworks were analyzed and three distinct aspects stood out: the transposition or translation of the law in the member states, the efficiency in implementing the MLA frameworks, and the protection of human rights.

This now leads to the fifth and final objective of the study which is to thresh out the lessons that could definitely be learned. With regard to this, there is considerable weight that should be given the distinguishing features of the two regional organizations which then becomes the basis to understand how they are as international actors in terms of their decision and policymaking. One of these lessons is the compliance or enforcement mechanism that the EU has, which helps in the faster implementation or policy-making in said regional organization, whereas the ASEAN is mainly driven through informal, consensus-based approaches in their everyday business.

Another lesson that could be learned is with respect to the ASEAN principle of non-intervention and the general characteristic of the EU of being normative and hegemonic (soft imperialism). This must definitely be taken into account in deciding for a mutual legal assistance regime between the ASEAN and the EU. Neither party should dominate the determination of terms.

The last lesson that is interesting to point out is the fact that the lack of harmonization does not necessarily result to inefficiency of the cooperation mechanism. Admittedly, the ASEAN member states do not have harmonization of laws and the same maybe forever a pipe dream given the intergovernmental nature of the ASEAN. The same lack of harmonization occurs in the EU, although in a smaller scale perhaps. Nonetheless, mem-

ber states are able to make the cooperation mechanism or mutual legal assistance work. There is approximation or the acceptance of minimum standards that help in building and maintaining (almost) smooth operations with each other.

Given these lessons, the present study then came up with different suggestions ranging from the MLA within the regional frameworks (involving their own member states), the groundwork for the development of MLA, and suggestions for both substantial and procedural provisions that could be included in the possible MLA regime between the ASEAN and the EU. These suggestions mainly start with least common denominators and non-negotiables of each regional organization in efforts to find agreement between the regional and member state frameworks.

In summary, the comparative criminal approach used by the present study in comparing the regional frameworks of the ASEAN and the EU, and the respective member state frameworks of the Philippines, Malaysia, the UK, and Germany, including a comparison of the law in books and the law of practice, would ultimately show that a mutual legal assistance regime could indeed be developed between and within the ASEAN and the EU. There is no need for the imposition of will of one regional organization to the other on what it thinks the other should do or practice. Instead, by building a common understanding of their respective frameworks and that of the other, as well as a common acceptance of the minimum principles, ideals, and norms based on their differences, a formal international cooperation mechanism is highly plausible.

Understandably, the ASEAN and the EU made a renewed commitment during the ASEAN 50th Anniversary celebrations to strengthen their cooperation with one another in the ASEAN-led ASEAN Political-Security Community, including fostering cooperation in fighting terrorism and transnational crime. The building of a mutual legal assistance regime between the two now-strategic partners would then be a step towards fulfilling this reciprocal commitment. It would not only enrich the criminal law policy of the regional organizations and their respective member states, but more importantly, show a strong political and security statement that both regional organizations are ready, willing, and able to commit to their respective endeavors and are willing to set their differences aside for the common good.

Admittedly however, the present study is not enough. It is suggested that other member states of each regional organization be compared, analyzed, and evaluated for a better well-grounded understanding of the existing frameworks. There is a possibility that the sample member states

in the present study were not able to show all needed information. There is the possibility of underlying issues that were not completely fleshed out.

Also, there is the need for more interviews, observations, and communications with authorities and experts on the field to gain more insights on the situation. Empirical studies could thus be undertaken, without prejudice to studies using different approaches to discern if the prognosis would still be the same.

Further, there is the possibility to undertake studies specifically comparing the security and criminal law policy of the ASEAN and the EU, including the possibility of looking into each one's member states. These studies could later on involve the possibility of developing closer cooperation between and within the ASEAN and the EU in criminal matters other than mutual legal assistance. For example, the development of a regional extradition treaty in ASEAN could be studied in furtherance of an interregional treaty with EU, as part of a set of international cooperation mechanisms between the two regional organizations. Another option for exploration is building data protection arrangements for transfers of personal data and information in criminal matters.

By undertaking the foregoing recommendations, one then could foresee the promotion and establishment of stronger toolkits, arrangements, and agreements between and within the regional organizations to combat transnational crime and build effective cooperation mechanisms in criminal law.