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From Agon to eucrim

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eucrim

European Law Forum: Prevention • Investigation • Prosecution

Editorial

EDITORIAL

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I.

Developing new visions and models for the cooperation and integration of the national European criminal law systems in the supra-national European context is one of the most challenging tasks for criminal lawyers in the 21st century. This new challenge is caused by the fact that European integration not only fosters the coalescence of European citizens and economies, but also an increase in trans-national crime. In a close economic community, it is no longer possible to deal with such phenomena of trans-national crime using traditional national criminal law systems, based on judicial decisions which are principally limited to national territory and can only be extended to foreign territories by time consuming complex mutual recognition procedures. Instead, dealing with trans-national European crime, requires new solutions to be found using European criminal law, thus creating a true European area of freedom, security and justice.

The necessary new visions and models for a European Criminal Law in the area of freedom, security and justice should not be developed by the European and national institutions alone, but in close cooperation with European civil society. For this reason, since 1990, practitioners and academics have created a network of private organizations dealing with European criminal law and the protection of the financial interests of the European Communities. As a consequence, today 32 associations from 30 European countries foster the cooperation of academics and practitioners from Member States and candidate countries of the European Union. The aim of this cooperation is to develop a European criminal law which both respects civil liberties and at the same time protects European citizens and the European institutions effectively. In this process, the protection of the financial interests of the European Communities has been the motor of the emerging European criminal law and plays a vital role.

Since the 1990's, cooperation between the 32 associations has taken place especially in the form of joint seminars, joint research projects and the annual meetings of the associations' presidents. Beyond this, the exchange of information between the members of the associations was supported by the "Bulletin AGON", which was published three or four times per year by *Luc Bihain* from the University of Liège between 1993 and 2002. With the present edition the *Max Planck Institute for Foreign and International Criminal Law* and the members of the editorial board seek to revitalise this exchange of information by setting forth this dissemination and exchange of information in a new format with extended content. The replacement of the old acronym "AGON" by the new title "*eucrim*" does not affect the fact that *eucrim* will continue to be a forum for the European Associations of Lawyers mentioned above; it is only due to the development that the title AGON is used today by other organisations. In this process of continuity, I am very pleased that the former members of the AGON editorial board, *Luc Bihain*, *Tuomas Pöysti*, *Julian Owen*, *Lorenzo Salazar*, and *Rosaria Sicurella* will continue to support the journal.

However, the new periodical *eucrim* will primarily be an electronic journal with only very few printed copies available. As an electronic journal *eucrim* can be distributed more widely, quickly and economically. *Eucrim* will also contain a news section with short summaries of latest developments based on internet links referring to more detailed information. The news-section will structure and summarize current developments concerning European criminal law not only in a concise but also in a systematic way. Focus will be given to fundamental developments and crimes which affect the legal interests of European citizens and of the EU itself, such as crimes detrimental to the EU budget. For this reason, the newsletter part is divided into blocks, such as "Foundations", "Institutions", "Special Areas of Crime/Substantive Criminal Law", "Procedural Criminal Law" and "Cooperation". Individual news items are then categorised accordingly. The full texts of all links can be easily accessed either by clicking on the respective ID-number of the desired link in the online-journal or – for print version readers - by accessing our webpage www.mpicc.de/eucrim/search.php and then entering the ID-number of the link in the search form.

By editing and distributing a journal incorporating this newsletter, the *Max Planck Institute for Foreign and International Criminal Law* strives to support the associations and to contribute to the development of European criminal law and to the joint European values based on the common principles of all European states. With this we hope to raise awareness of the general framework, relevant legal provisions, institutions and practical problems associated with the emerging area of freedom, justice and security among a wider audience of lawyers; academics, practitioners and policy-makers alike. Such fast and concise information on the development of crime and criminal law in Europe is a central requirement for the necessary involvement of civil society in the “Europeanisation” of criminal law.

II.

The present first edition of *eucrim* is atypical with regard to its length. Since the publication of the first volume was postponed because of difficulties in collecting the necessary email database of the European Lawyers’ Association members, it incorporates the first two issues of 2006. Thus, the news section of this first issue analyses developments on the most important European criminal law topics of the first half of 2006 (including some retrospective views of developments in 2005).

The focus of the present issue’s *news section* is, for instance, the discussion on Community powers in Criminal matters, which was sparked by the decision of the European Court of Justice on the annulment of the framework decision on the protection of environmental law, and the thoughts on using the “passerelle clause” of Art. 42 TEU. Special emphasis is also placed on the activities of OLAF, the fight against money laundering and counterfeiting, the debate on procedural safeguards within the EU and the agreement to the European Evidence Warrant. Further developments which started during the recent months, such as the new debates concerning the EU constitution and the accession of the European Union to the Council of Europe, the Commission communications on the Hague Programme, the reflections on widening powers of Europol, or the enhancing of judicial cooperation put forward in the frame of the “Heiligendamm meeting”, will be exemplified in the next issue. Following issues shall then cover shorter periods and report in a less voluminous way.

The focal theme of the *article section* is the European arrest warrant which changed traditional extradition law fundamentally by introducing a new surrender procedure. It is considered to be a milestone on the path towards the progressive establishment of a genuine area of freedom, security and justice as mentioned above, but it also raises serious concerns with respect to the protection of civil liberties. The first article by *Gómez-Jara Díez* gives an insight into the European law perspective by tackling the European approach to the European arrest warrant and the underlying principle of mutual recognition. *Anne Weyembergh* analyses the decision of the Belgian “Cour d’arbitrage/Arbitragehof” which questioned the validity of the framework decision at the European Court of Justice. *Peggy Pfuetzner* and *Stefano Manacorda*, each, describe problems of national implementation in France and Italy. The legal concerns of the Polish Constitutional Court are addressed in the *Barbara Nita’s* contribution. Finally, *Heiko Ahlbrecht* presents an analysis of the famous decision by the German Federal Constitutional Court which declared the German implementation legislation void last year. In this context he also presents the development of the new German implementation law.

III.

The publication of this first issue is due to the support of many persons. I would like to thank especially the members of the editorial board, the authors of the articles and all collaborators of the Max Planck Institute involved, and especially the managing editor *Thomas Wahl*. Thanks are also due to OLAF which supports the publication of the newsletter with a grant under the Hercule programme.

The future of *eucrim* will also depend on the support of many other people whom I would like to ask for their further assistance.

- First, I would like to encourage all recipients of this issue to distribute *eucrim* by e-mail to other association members and to other persons for whom it might be of interest and to draw their attention to the possibility of subscribing to *eucrim* free of charge by sending an e-mail to eucrim-subscribe@mpicc.de. *Eucrim* can also be used by the European associations to make membership in them more valuable and attractive.

Information on and access to *eucrim* can also be found under <http://www.mpicc.de/eucrim>.

- In addition, I would like to invite all readers to send us short manuscripts and texts for publication, based on previous agreement of topics and text length with the editors. We are also very grateful for brief notification of any developments which would be of interest for the news section, if possible with supporting internet links. *Eucrim* can only be continued in the present form if it is supported by scholars and practitioners from many European countries and institutions. Other information, e.g. on new books or seminars, can also be published in *eucrim*.

- We also welcome proposals for improvements as well as for subjects upon which to focus in future issues. The forthcoming issues will deal with the following two topics in particular: first, the European Community competences in the criminal law field, i.e. the impact of the European Court's decision on the Framework Decision for the protection of the environment through criminal law (Case C-176/03), and second, the implementation of the PIF convention in the Member States. Thereafter the agenda will be set by our editorial board in dialogue with our readers.

My wish is that *eucrim* will contribute to new visions, models and practical solutions for the emerging European criminal law and will become a lively platform for the dissemination and exchange of information in relation to the common interests of all 32 Associations and other interested persons.

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About eucrim

eucrim is the leading journal serving as a European forum for insight and debate on criminal and "criministrative" law. For over 20 years, it has brought together practitioners, academics, and policymakers to exchange ideas and shape the future of European justice. From its inception, *eucrim* has placed focus on the protection of the EU's financial interests – a key driver of European integration in "criministrative" justice policy.

Editorially reviewed articles published in English, French, or German, are complemented by timely news and analysis of legal and policy developments across Europe.

All content is freely accessible at <https://eucrim.eu>, with four online and print issues published annually.

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