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Dear Readers,

I am delighted to present this new issue of eucrim, which covers different aspects of judicial cooperation within the European Union. Cooperation in criminal matters among the European Union Member States tackles various questions of a different nature, spanning legal, political, theoretical, and practical issues. In contrary to the practice in civil matters, cooperation in criminal matters proves to be more difficult, mainly due to the “traditional” approach linked with the sovereignty of each State in respect of its criminal legislation. However, ideas that have been adopted and put into practice in the European Communities and European Union over the past few decades force us to look at the issue of sovereignty in criminal law in a new way.

Although unintended, the free movement of persons and goods in the European Community unfortunately also allows criminals to move more easily and freely across the borders of the European Union Member States and to set up or move their criminal enterprises wherever and whenever it proves most effective. Efforts must be undertaken on the part of each Member State, not only individually but also collectively, in order to effectively safeguard the underlying policies of the EU and fight cross-border crime.

The process of achieving these aims can be divided into three levels: European legislation, national legislation, and practical cooperation. The first two levels assume political good will. The third one rests on good faith and mutual trust among the Member States. Each level is as important as the other, although the efficacy of enacted laws will always be measured in practice. For this reason, despite its legislative origins, the level and standard of cooperation among EU Member States in criminal matters will always rest with judges, prosecutors, the police, and other law enforcement officers.

In this context, the implications of the EU approach to the interpretation of national legislation can never be underestimated. I would like to draw your attention to two cases relating to the European Arrest Warrant that were heard by the Polish Supreme Court. The first case in 2006 concerned a Polish national sought by Belgian authorities under a charge of murder. He was still a juvenile according to Belgian law and, although the Belgian legislation on juveniles allowed a category of juveniles to be tried as adults under the criminal law, in respect of this youth, such a decision was not taken when the European Arrest Warrant was issued. The Polish Supreme Court held that, despite the lack of any instigated criminal proceedings, the warrant could be executed, provided that the surrender of the accused is for the purpose of conducting criminal non-juvenile proceedings.

The second case in 2009 was even more difficult, in particular due to different approaches adopted by different EU Member States. It concerned the procedure of returning a sentenced offender to the executing Member State for the purpose of serving the sentence passed in the issuing Member State, as set forth in Article 5.3 of the Framework Decision on the European Arrest Warrant. The Supreme Court held that Article 607s § 4 of the Polish Code of Criminal Procedure excludes *exequatur* procedures, as set forth in the 1983 Council of Europe Convention on the transfer of sentenced persons and in Polish legislation.

The decisions in these two cases exemplify how Poland gave the idea of mutual recognition of judicial decisions in criminal matters its widest possible meaning. The fundamental pillars of both decisions are based on the belief and trust that Polish or any other EU Member State’s cases abroad will be treated with the same broad approach to the idea of mutual recognition.

On balance, the philosophy of the traditional approach to sovereignty in criminal law must be reviewed in order to effectively fight the increasing number of EU-wide crimes. Maintaining and developing the EU as an area of freedom, security and justice depends on good faith among the Member States. The phrase “area of

freedom, security and justice” means nothing if not supplemented with “mutual trust”. This applies equally to all aspects of judicial cooperation in criminal matters.

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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.

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