

Literature

Literature in German

- M. Deiters, 'Gegenseitige Anerkennung von Strafgesetzen in Europa', *Zeitschrift für Rechtspolitik (ZRP)*, No. 10, 2003, p. 359-362
- H. Fuchs, 'Europäischer Haftbefehl und Staaten-Souveränität', *Juristische Blätter*, July 2003, p. 405-413
- S. Gless, 'Zum Prinzip der gegenseitigen Anerkennung', *Zeitschrift für die gesamte Strafrechtswissenschaft (ZStW)*, No. 2, 2004, p. 353-367
- E. Guzik Makaruk, '"Ne bis in idem"', Europäischer Haftbefehl und der Verfassungsentwurf für Europa aus polnischer Sicht', *Zeitschrift für die gesamte Strafrechtswissenschaft (ZStW)*, No. 2, 2004, p. 372-375
- O. Lagodny, 'Auslieferung und Überstellung deutscher Staatsangehöriger', *Zeitschrift für Rechtspolitik (ZRP)*, No. 5, 2000, p. 175-177
- C. Nestler, 'Europäisches Strafprozessrecht', *Zeitschrift für die gesamte Strafrechtswissenschaft (ZStW)*, No. 2, 2004, p. 332-352
- W. Schomburg, O. Lagodny, *Internationale Rechtshilfe in Strafsachen*, München: Beck 1998
- B. Schünemann, 'Europäischer Haftbefehl und Eu-Verfassungsentwurf auf schiefer Ebene', *Zeitschrift für Rechtspolitik (ZRP)*, No. 6, 2003, p. 185-189
- E. Weigend, 'Die Implementierung des Europäischen Haftbefehls in das polnische Strafrecht', *Zeitschrift für die gesamte Strafrechtswissenschaft (ZStW)*, No. 1, 2005, p. 3-17

Literature in English

- P. Albrecht, S. Braum, 'Deficiencies in the Development of European Criminal Law', *European Law Journal*, No. 5 1999, p. 293-310
- S. Alegre & M. Leaf, *European arrest warrant: a solution ahead of its time?*, London: Justice 2003
- S. Alegre & M. Leaf, 'Criminal Law and fundamental rights in the European Union: moving towards closer cooperation', *European Human Rights Law Review*, No. 3, 2003, p. 326-335
- S. Alegre & M. Leaf, 'Mutual Recognition in European Judicial Cooperation: A step too far too soon? Case Study – the European Arrest Warrant', *European Law Journal*, No. 2 2004, p. 200-217
- J. Apap & S. Carrera, 'European Arrest Warrant: A good testing ground for mutual recognition in the enlarged EU?', *CEPS Policy Brief*, No. 46, February 2004
- A. Arnulf, 'Arrested Development', *European Law Review*, No. 5, 2005, p. 605-606
- R. Blekxtoon et al., *Handbook on the European Arrest Warrant*, The Hague: T.M.C. Asser Press 2005
- D. Chalmers, 'The Court of Justice and the Third Pillar', *European Law Review*, No. 6, 2005, p. 773-774
- S. Douglas-Scott, 'The rule of law in the European Union – putting the security into the area of freedom, security and justice', *European Law Review*, No. 2, 2004, p. 219-242
- U. di Fabio, 'Some remarks on the allocation of competences between the European Union and its Member States', *Common Market Law Review*, No. 39, 2002, p. 1289-1301

- C. Harding, 'Exploring the intersection of European law and national criminal law', *European Law Review*, No. 4, 2000, p. 374-390
- A. Klip, 'The Constitution for Europe and criminal law: a step not far enough', *Maastricht Journal of European and Comparative Law*, No. 2, 2005, p. 115-123
- S. De Mas, 'Protecting the Legal Rights of the traveling citizen: easier said than done', *Criminal Law Review*, December 2003, p. 865-874
- V. Mitsilegas, 'Defining Organised crime in the European Union: the limits of European Criminal law in an area of "freedom, security and justice"', *European Law Review*, No. 6, 2001, 565-581
- S. Peers 'Mutual recognition and criminal law in the European Union: has the council got it wrong?', *Common Market Law Review*, No. 41, 2004, p. 5-36
- M. Plachta, 'European Arrest Warrant: Revolution in Extradition?', *European Journal of Crime, Criminal Law and Criminal Justice*, Vol. 11/2, 2003, p. 178-194
- N. Thwaites, 'The European Arrest Warrant – Moving towards a European Penal Area', *EU Focus*, No. 109, 2002, p. 2-4
- N. Vennemann, 'The European Arrest Warrant and Its Human Rights Implications', *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (ZaöRV)*, 63 (2003), p. 103-121
- W. Wagner, 'Building an Internal Security Community: The Democratic peace and the Politics of Extradition in Western Europe', *Journal of Peace Research*, Vol. 40, No. 6, 2003, p. 695-712
- C. Warbrick, 'The European response to terrorism in an age of human rights', *European Journal of International Law*, November 2004, p. 989-1017
- M. Wasmeier & N. Thwaites, "The Battle of the Pillars": does the European Community have the power to approximate national criminal laws', *European Law Review*, No. 5, 2004, p. 613-635
- A. Weyembergh, 'Approximation of criminal laws, the Constitutional Treaty and The Hague programme', *Common Market Law Review*, No. 42, 2005, p. 1567-1597
- J. Wouters, F. Naert, 'Of arrest warrants, terrorist offences and extradition deals: an appraisal of the EU's main criminal law measures against terrorism after "11 September"', *Common Market Law Review*, No. 41, 2004, p. 909-935

Literature in Dutch

- R. Blekxtoon, 'Europees arrestatiebevel', *Nederlands Juristenblad*, 31 mei 2002, p. 1058-1061
- R. Blekxtoon, 'Checks and balances van het Kaderbesluit Europees aanhoudingsbevel', *Delikt & Delinkwent*, No. 6, 2004, p. 572-589
- J. Bonga-Sigmond, 'Concentratie van internationale strafrechtspraak', *Trema*, december 2004, p. 474-475
- M. Boerlage & C.F. Mulder, 'Europa, het strafrecht en de rafelige noordgrens van de Europese Unie', *Delikt en Delinkwent*, No. 7, 2002, p. 726-744
- A. van Dorst, 'Het Europees aanhoudingsbevel', in G.J.M. Corstens (red.), *Europeanisering van het Nederlands recht*, Deventer: Kluwer 2004, p. 407-424
- J. Fokkens, 'Over cassatie in het belang der wet, in het bijzonder in strafzaken', in P.P.T. Bovend'Eert, L.E. de Groot-van Leeuwen & Th.J.M. Mertens (red.), *De rechter bewaakt: over toezicht en rechters*, Deventer: Kluwer 2003, p. 193-205
- W. Jonk, G. Hamer & R. Malewicz, 'De nieuwe Overleveringswet', *Delikt & Delinkwent*, No. 9, 2004, p. 894-911

- W. Jonk, R. Malewicz & G. Hamer, 'Uitleveren of vervolgen in Nederland?', *Strafrecht*, 2004, p. 27-32
- A. Klip, *Uniestrafrecht*, Deventer: Kluwer 2005 (*)
- T. Kraniotis, 'Na Uitlevering Overgeleverd?', *Ars Aequi*, No. 5, 2004, p. 344-351
- R. Malewicz & G. Hamer, 'Een mooie taak voor de Balie', *Advocatenblad*, 31 oktober 2005, p. 888-891
- J. Reijntjes, 'Europees aanhoudingsbevel', *Nederlands Juristenblad*, afl. 14, 5 april 2002, p. 712-715
- A. Smeulers, 'Het Europees aanhoudingsbevel', *Militair Rechtelijk Tijdschrift*, No. 7, 2003, p. 251-252
- A. Smeulers, 'Het Europees Aanhoudingsbevel', *Justitiële Verkenningen*, No. 6, 2004, p. 66-85
- A. Smeulers & J. de Vries, 'Het Europees aanhoudingsbevel: gerechtvaardigd vertrouwen?', *NJCM-bulletin*, No. 4, 2003, p. 428-444 (**)
- G. Stessens, 'Het Europees aanhoudingsbevel', *Rechtskundig Weekblad*, 11 december 2004, p. 561-581
- S. Stolwijk, 'Een Europees arrestatie bevel', *Delikt & Delinkwent*, No. 2, 2002, p. 101-105
- G. Strijards, 'Naar een Europees Openbaar Ministerie', in: A. Hartevelde en E. Stamhuis (red.), *Systeem in ontwikkeling: liber amicorum G. Knigge*, Nijmegen: Wolf Legal Publishers 2005, p. 497-513
- T. Trotman, 'I trust the French, but not always', *Advocatenblad*, No. 8, 4 juni 2004, p. 378-379
- G. Vermeulen, 'Van Tampere tot Laken; Meer veiligheid ten koste van vrijheid en rechtvaardigheid?', *Panopticon*, 2002, p. 1-6

(*) Includes translation in French, German and English

(**) The appendix is printed after the article

In the first chapter, I examine the longer term development of the EU's approach to criminal justice cooperation in criminal matters. The lack of a clear division of responsibilities between the EU and Member States, combined with limited parliamentary and judicial oversight has made the fight against crime increasingly susceptible to criticism. While there is general agreement that individuals who are members of criminal organizations having committed crimes in the EU should stand trial and if found guilty should be punished, this general point of departure gives rise to many divergences on the way in which this should be done. In my view, the key shortcoming of the EAW is that it has not been accompanied (yet at least) by a framework decision setting out the rights of the defence which must apply across the Union. In an EU of 25 Member States with very different traditions of criminal justice and very different concepts of crime, a simplified system of criminal procedure will only work effectively and legitimately if the rights of the defence are subject to a common high standard of rights. Without such a measure, it will be very difficult for the courts of the Member States, whom faced with a difficult case, to have the confidence which is necessary to hand over an individual to a foreign criminal justice system.

Kegy, looking at the development of the EAW in chapter 2, argues rather convincingly that a fundamental problem with the EAW is the abolition of the dual criminality requirement. In view of the fact that criminal law is the result of negotiations between

¹ See Centre for Migration Law, Radboud University Nijmegen, The Netherlands.

² See Commission Report Annex 24.1 2005 COM (2005).