

Contents

<i>Foreword</i>	v
<i>Preface and Acknowledgements</i>	vii
<i>Table of Cases</i>	xi
Introduction	1
1 History, Principles and Institutions	5
I. Introduction	5
II. Background—The Community and Criminal Law before Maastricht	5
III. The Third Pillar—The Institutional Framework	9
IV. The Third Pillar and the Constitutional Principles of the Community: the Contribution of the Court of Justice	23
V. The Politics of the Third Pillar: Member States' Security Ambition versus Institutional Checks and Limits	31
VI. The Future in the Light of Lisbon	36
VII. Conclusion	56
2 Harmonisation and Competence	59
I. Introduction	59
II. Community Law and Criminal Law	60
III. Criminal Law in the Third Pillar	85
IV. Domestic Legal Cultures and Criminal Law Harmonisation	92
V. Harmonisation for Mutual Recognition	101
VI. The Future in the Light of Lisbon	107
VII. Conclusion: Criminal Law Harmonisation as a Means to which End?	110
3 Mutual Recognition: Prosecution, Jurisdiction and Trust in an 'Area' of Freedom, Security and Justice	115
I. Introduction	115
II. The Principle of Mutual Recognition in EU Criminal Law	116
III. Instruments of Mutual Recognition in Criminal Matters and Resulting Constitutional Concerns	120
IV. Addressing Constitutional Concerns in Legislation	127
V. Constitutional Concerns in the Courts	133
VI. Prosecution and Jurisdiction in the 'Area' of Freedom, Security and Justice	142
VII. The Future in the Light of Lisbon	156

Contents

VIII. Conclusion: Sovereignty, Territoriality and Rights in an 'Area' of Freedom, Security and Justice	158
4 Bodies, Offices and Agencies	161
I. Introduction	161
II. Europol	161
III. Eurojust	187
IV. OLAF	210
V. Other Bodies: Counter-terrorism, Informality and Cross-Pillarisation	219
VI. Interagency Co-operation	222
VII. Controlling Bodies by Other Bodies and Agencies	224
VIII. The Future in the Light of Lisbon	225
IX. Conclusion: Extending the Field of Enforcement in the EU?	232
5 Databases: Reconfiguring the Relationship between Security and Privacy	235
I. Introduction	235
II. EU Databases	235
III. Exchange of Data between National Authorities	250
IV. Data Collection and the Private Sector	263
V. Privacy and Data Protection in the Light of Lisbon	272
VI. Conclusion: What Future for Privacy in an Era of Security?	277
6 The External Dimension	281
I. Introduction	281
II. Enlargement	281
III. The Union and Its Neighbours	288
IV. International Agreements	291
V. The Union and International Organisations	310
VI. The Future in the Light of Lisbon	316
VII. Conclusion: The Quest for Coherence in EU External Action	317
Conclusion: Is Criminal Law a Special Case in the EU Legal Order?	321
<i>Bibliography</i>	325
<i>Index</i>	347

Table of Cases

Advovaten voor de Wereld VZW v Leden van de Ministerraad (Case C-303/05) ECR [2007] I-3633	16, 138
Amsterdam Bulb (Case 50/76) ECR [1977] 137	62
Ayadi v Council (Case T-253/02) ECR [2006] II-2139.....	315
Berlusconi (Cases C-387/02, C-391/02 and C-403/02) ECR [2005] I-3565	30, 64
Bickel and Franz (Case C-274/96) ECR [1998] I-7637	62
Bourquain (Case C-297/07) (unreported)	153
Calfa (Case 48/96) ECR [1999] I-11	62
CEC v Greece (Case C-68/88) ECR [1989] 2965	63
Commission v Council (Case C-91/05) [2008] 3 CMLR 5	82
Commission v Council (Case C-176/03) ECR [2005] I-7879	70, 72, 75
Commission v Council (Case C-300/89) ECR [1991] I-2867	107
Commission v Council (Case C-440/05) ECR [2007] I-9097	79
Commission v European Central Bank (Case C-11/00) ECR [2003] I-7417	211
Commission v European Investment Bank (Case C-15/00) ECR [2003] I-7281	211
Cowan v Trésor Public (Case 186/87) ECR [1989] 195.....	62
Dabas v High Court Of Justice, Madrid [2007] UKHL 6	19
Franchet v Commission of the European Communities (Case T-48/05) (8th July 2008)	217
Gasparini (Case C-467/04) ECR [2006] I-9199	146, 147, 149, 152
Gestoras Pro Amnistia v Council (Case C-354/04 P) ECR [2007] I-5179	16, 21
Gestoras Pro Amnistia v Council (Case T-333/02).....	20
Giovanni Dell Orto (Case C-467/05) ECR [2007] I-5557	92
Gözütok and Brügge (Case C-187/01,C-385/01) ECR [2003] I-1345	144
Guerrino Casati (Case-203/80) ECR [1981] 2595	61
Hassan v Council and Commission (Case T-49/04) ECR [2006] II-52.....	315
International Association of Independent Tanker Owners (Intertanko) v Secretary of State for Transport (C-308/06) [2008] Lloyds Rep 260 88,	141
Ireland v Council of the European Union (Case C-301/06) (unreported)	269, 304
Kadi v Council and Commission (Case T-315/01) ECR [2005] II-3649	314, 315
Katz v Sos (Case C-404/07) (unreported)	92
Kolpinghuis Nijmegen (Case 80/86) ECR [1987] 3969	64

Table of Cases

Kozłowski (Case C-66/08) [2008] 3 CMLR 26.....	23, 138
Kraajenbrink (Case C-367/05) ECJ [2007] I-619.....	151
Kretzinger (Case C-288/05) ECR [2007] I-6641	148, 150, 152
Les Verts v Parliament (Case C-294/83) ECR [1986] 1339	203
Miraglia (Case C-469/03) ECR [2005] I-2009.....	145
Nunes de Matos (Case C-186/98) ECR [1999] 4883	63
OMPI v Council (Case T-228/02) ECR [2006] II-4665.....	21, 29, 315
Ordre des Barreaux Francophones et Germanophone v Council (Case C-305/05) ECR [2007] I-5305	313
Parliament v Commission (Case C-318/04) ECR [2006] I-4721	301
Parliament v Commission (Case C-403/05) ECR [2007] I-9045	304
Parliament v Council (Case C-133/06) (6 May 2008)	184
Parliament v Council (Case C-317/04) ECR [2007] 278	74, 301
Parliament v Council (Case C-540/03) ECR [2006] I-5769	140
Pfeiffer et al v Deutsches Rotes Kreuz (Case C-397/01 to C-403/01) ECR [2004] I-8835.....	28, 29, 30
Placanica, Palazzese, and Sorricchio (Cases C-338/04, C-359/04 and C-360/04) ECR [2007] I-1891.....	62
Pupino (Case C-105/03) ECR [2005] I-5285.....	26, 29, 30, 64, 91, 112, 135, 203
Rewe-Zentralfinanz v Bundesmonopolverwaltung fuer Branntwein (Case 120/78) ECR [1979] 649.....	119
Rothley v European Parliament (Case C-167/02P) ECR [2004] I-3149.....	212
Segi v Council (Case C-355/04 P) ECR [2007] I-6157	16
Segi v Council (Case T-338/02) ECR [2004] II-1647.....	20
Sison v Council (Case T-47/03) ECR [2007] I-1233.....	20
Skanavi and Chryssanthakopoulos (Case C-193/94) ECR [1996] I-929	61
Spain v Eurojust (Case C-160/03) ECR [2005] I-2077	202
Tillack v Commission of the European Communities (Case T-193/04R) ECR [2004] II-3575	216, 217
Tillack v Commission (Case T-193/04) ECR [2006] II-3995.....	215, 216, 217
Tillack v Commission of the European Communities (Case C-521/04 P(R)) ECR [2005] I-3103.....	216, 217
Van Esbroeck (Case C-436/04) ECR [2006] I-2333.....	145
Van Straaten v the Netherlands and Italy (Case C-150/05) ECR [2006] I-9327	146
X (Case C-60/02) ECR [2004] I-651.....	64
Yusuf and Al Barakaat International Foundation v Council and Commission (Case T-306/01) ECR [2005] II-3533.....	314