

EUROPEAN CRIMINAL LAW REVIEW

EuCLR

EDITORS

Prof. Dr. Thomas Elholm, Odense (Dk)
Prof. Dr. Luigi Foffani, Modena (I)
Prof. Dr. Maria Kaiafa-Gbandi,
Thessaloniki (GR)
Prof. Dr. Helmut Satzger,
Munich (D)
Prof. Dr. Ingeborg Zerbes,
Bremen (D)

EDITORIAL

ARTICLES

Maria Kaiafa-Gbandi
ECJ's Recent Case-Law on Criminal Matters: Protection of Fundamental Rights in EU Law *p. 219*

Anneke Petzsche
The Penalization of Public Provocation to Commit a Terrorist Offence *p. 241*

Ariel Falkiewicz
The Double Criminality Requirement in the Area of Freedom, Security and Justice *p. 258*

Athina Giannakoula
Framework Decisions under the Lisbon Treaty: Current Status and Open Issues *p. 275*

Jamil Ddamulira Mujuzi
The Transfer of Offenders between European Countries and Remission of Sentences *p. 289*

Charlotte Schmitt-Leonardy
Entrapment & Evidence
The Impact of the ECtHR's Judgment in the Case of *Furcht v. Germany* on the Jurisprudence of the German Federal Court of Justice *p. 304*

3
2017

Volume 7

Pages 215 – 320

ISSN 2191-7442



Nomos

www.euclr.de


C.H.BECK

Editors: Prof. Dr. Thomas Elholm; Prof. Dr. Luigi Foffani; Prof. Dr. Maria Kaiafa-Gbandi; Prof. Dr. Helmut Satzger; Prof. Dr. Ingeborg Zerbes

Editor-in-chief: Prof. Dr. Helmut Satzger

Editorial Board: Petter Asp, Sweden; Nikolaos Bitzilekis, Greece; Sergiu Bogdan, Romania; Pedro Caeiro, Portugal; Dan Frände, Finland; Helmut Fuchs, Austria; Athina Giannakoula, Greece; Dan Helenius, Finland; Jocelyne Leblois-Happe, France; Laura Neumann, Germany; Adán Nieto-Martín, Spain; Slavomir Steinborn, Poland; Annika Suominen, Norway; Elisabeth Symeonidou-Kastanidou, Greece; Francesco Vigano, Italy; Frank Zimmermann, Germany

Table of Contents

Editorial 2017/3	217
ARTICLES	
Maria Kaiafa-Gbandi	
ECJ's Recent Case-Law on Criminal Matters: Protection of Fundamental Rights in EU Law and its Importance for Member States' National Judiciary	219
Anneke Petzsche	
The Penalization of Public Provocation to Commit a Terrorist Offence – Evaluating Different National Implementation Strategies of the International and European Legal Framework in Light of Freedom of Expression	241
Ariel Falkiewicz	
The Double Criminality Requirement in the Area of Freedom, Security and Justice – Reflections in Light of the European Court of Justice Judgment of 11 January 2017, C-289/15, <i>Criminal Proceedings against Jozef Grundza</i>	258
Athina Giannakoula	
Framework Decisions under the Lisbon Treaty: Current Status and Open Issues	275
Jamil Ddamulira Mujuzi	
The Transfer of Offenders between European Countries and Remission of Sentences: A Comment on the Grand Chamber of the Court of Justice of the European Union's Judgment in <i>Criminal Proceedings against Atanas Ognyanov</i> of 8 November 2016	
Dealing with Article 17 of Council Framework Decision 2008/909/JHA	289
Charlotte Schmitt-Leonardy	
Entrapment & Evidence	
The Impact of the ECtHR's Judgment in the Case of <i>Furcht v. Germany</i> on the Jurisprudence of the German Federal Court of Justice	304

Editor-in-chief: Prof. Dr. Helmut Satzger

Lehrstuhl für Deutsches, Europäisches und Internationales Strafrecht und Strafprozessrecht sowie Wirtschaftsstrafrecht

Ludwig-Maximilians-Universität
Prof.-Huber-Platz 2
80539 München

Telephone: +49-(0)89 - 2180 2734

Mail: h.satzger@lmu.de

www.euclr.de

Publication: three times a year

Subscription prices 2017: Annual subscription: incl. online-access (Private subscriber) 158,- €, for institutions incl. online-access 249,- €; Single issues: 57,- €. Prices do not include postage and packing.

Orders: Subscriptions and orders should be sent to: Nomos Verlagsgesellschaft mbH, D-76520 Baden-Baden, Germany.

Cancellation Period: Termination within 3 months notice to the end of the year.

Banking details: payable in advance to Nomos Verlagsgesellschaft, Postbank Karlsruhe: IBAN: DE07 6601 0075 0073 6367 51, BIC: PBNKDEFF or Sparkasse Baden-Baden Gaggenau: IBAN: DE05 6625 0030 0005 0022 66, BIC: SOLADES1BAD

Production and Publishing: Nomos Verlagsgesellschaft mbH & Co. KG, Waldseestr. 3-5, D-76484 Baden-Baden, Telephone (07221) 2104-0/Fax (07221) 2104-27, E-Mail: nomos@nomos.de

Advertisement: Sales friendly Verlagsdienstleistungen, Pfaffenweg 15, 53227 Bonn, Telefon (0228) 978980/Fax (0228) 9789820, E-Mail: roos@sales-friendly.de.

ISSN 2191-7442

Copyright and Right of Publishing:

The journal and all individual articles and illustrations it contains are protected by copyright. Any re-use that is not expressly granted by copyright law requires the previous consent of the publisher. Upon acceptance of publication, the author transfers to the publisher the following rights with respect to his or her work for the duration of the legal copyright: the exclusive, worldwide and temporally unrestricted right to reproduce and distribute in physical form; the right to public reproduction and public display; the right to inclusion in databases; the right to store on electronic data storage media; the right to distribute and reproduce such storage media; and the right to make other use of the work in electronic form. This final right includes the use of electronic forms that are, at present, unknown. This granting of rights also covers the exploitation of the rights of use both by the Publisher itself as well as through the transfer or the granting (including partially) of rights to third parties.

After the expiry of one year, the author may publish the manuscript version of his or her work elsewhere, according to the requirements set out in § 38 Para. 1 Sent. 2 and Para. 2 of the Copyright Act. The right to self-archiving on the author's own web site and the web site of the institution where he or she works (cf. § 38 Para. 4 of the Copyright Act) remains unaffected. Nomos Publishing is a "green publisher." Provided that author's royalties are being paid by the publishing organ, the rights listed under 1. are to be considered paid for in their entirety by the agreed upon one-time lump sum payment. If a sales-based payment arrangement has been agreed to for the printed version, then the same payment arrangement applies to revenues from electronic utilization. The invoicing takes place at the same interval as for the printed version. For periodicals that are also financed by authors' and publishers' subsidies or by third parties, it may be assumed that the subsidy needs were reduced by a waiver of royalties. Therefore, separate payment claims exist only in the context of new utilization forms and/or when the revenues earned with a known utilization form prove to be significantly above average.

Unsolicited, submitted manuscripts--for which no liability is assumed--are considered proposals for publication according to the terms of the publisher. The editors allow themselves a longer period for examining submissions. No liability is assumed for damage or loss. Only unpublished original works are accepted. The author grants his or her consent to a non-distorting editorial treatment of the submitted work. Works identified by name do not always reflect the opinions of the anthologist/editor or publisher. We offer no guarantee that unsolicited submitted review pieces will be discussed or returned.

The regulations of the Börsenverein des Deutschen Buchhandels e.V. (German Publishers and Booksellers Association) for the use of book reviews (status 9/2013) apply to the use of review extracts.