

EUROPEAN CRIMINAL LAW REVIEW

EuCLR

EDITORS

Prof. Dr. Thomas Elholm,
Copenhagen (DK)

Prof. Dr. Luigi Foffani, Modena (I)

Prof. Dr. Maria Kaiafa-Gbandi,
Thessaloniki (GR)

Prof. Dr. Helmut Satzger,
Munich (D)

Prof. Dr. Ingeborg Zerbos,
Vienna (A)

EDITORIAL

ARTICLES

Victoria Ibold

**Transnational Jurisdiction for Cybercrimes
de lege lata and de lege ferenda** *p. 255*

Anja Schmidt

**Human Trafficking – Between Punishable Human
Rights Violations and Decriminalization** *p. 272*

Susanne Beck / Melina Tassis

**Human Trafficking – Can the German Reform
Address the Complexity of the Phenomenon?** *p. 293*

Mehmet Arslan

**The Taking of Evidence in a Fair Trial in the Light of the
ECTHR – Especially the Protection of Confidential
Information or State Secrets as Evidence** *p. 314*

Julia Geneuss

**The Legal Limbo of Counter-Terrorism Criminal Law
and Armed Conflict Anti-Regime and Anti-IS (Foreign)
Fighters Before European Courts** *p. 338*

Alexander Reuter

**EU Corporate Fines Hit the Wrong and Fail
their Purpose: Empirical Considerations and their
Consequences from the Perspective of Shareholders'
Fundamental Rights** *p. 395*

3

2020

Volume 10

Pages 251–409

ISSN 2191-7442



Nomos

www.euclr.de



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 Viganò, Italy; Frank Zimmermann, Germany

Table of Contents

Editorial	
<i>“A Union that strives for more”</i>	253
ARTICLES	
Victoria Ibold	
Transnational Jurisdiction for Cybercrimes de lege lata and de lege ferenda	255
Anja Schmidt	
Human Trafficking – Between Punishable Human Rights Violations and Decriminalization	272
Susanne Beck / Melina Tassis	
Human Trafficking – Can the German Reform Address the Complexity of the Phenomenon?	293
Mehmet Arslan	
The Taking of Evidence in a Fair Trial in the Light of the ECtHR – Especially the Protection of Confidential Information or State Secrets as Evidence	314
Julia Geneuss	
The Legal Limbo of Counter-Terrorism Criminal Law and Armed Conflict Anti-Regime and Anti-IS (Foreign) Fighters Before European Courts	338
Alexander Reuter	
EU Corporate Fines Hit the Wrong and Fail their Purpose: Empirical Considerations and their Consequences from the Perspective of Shareholders’ Fundamental Rights ...	365
VARIA	
Petra Wittig	
Corporate Responsibility for Transnational Human Rights Violations under German Criminal Law – Review and Outlook	395

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 2020: Annual subscription: incl. online-access (Private subscriber) 158,- €, for institutions incl. online-access 279,- €; 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@salesfriendly.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.