

EUROPEAN CRIMINAL LAW

An Integrative Approach

André KLIP

3rd edition



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Intersentia Ltd
Sheraton House | Castle Park
Cambridge | CB3 0AX | United Kingdom
Tel.: +44 1223 370 170 | Fax: +44 1223 370 169
Email: mail@intersentia.co.uk
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PREFACE

Four years have elapsed since the previous edition. For this new edition it was necessary to wait until the transitional period of the Treaty of Lisbon came to an end on 1 December 2014 and the first subsequent experiences could be incorporated. It has been a great pleasure to see that the second edition is frequently used, both in courses on European criminal law and cooperation in criminal matters at various universities and training schools for the judiciary, and in academic writings. I was honoured that it was translated into Romanian in 2014.* I thank the Soros-Foundation for the generous support to carry out the translation.

This third edition has kept the main features of the second. However, some important changes must be mentioned. A new Chapter 4 on the interpretation of the law better reflects the particularities of how to interpret European criminal law in a national setting. Elaborate revisions also took place in the chapter on criminal procedure, now Chapter 6. This was especially necessary in view of defence directives that have been adopted in recent years. They change the nature of criminal procedure.

The book remains unique in the wealth of court decisions and legal instruments it covers. It is my ambition to make *European Criminal Law* an invaluable source for every European and criminal lawyer (whether practitioner, academic or student). This third updated and extended edition fully covers all recent developments up to and including 1 October 2015.

I am honoured with the apt feedback I received from Christina Peristeridou, almost on a 24/7 basis, as well as from her managing the Annex on the Literature on European Criminal Law in the Member States. I am most grateful to Hannah Brodersen, Miguel João de Almeida Costa, Johannes Keiler, Christina Peristeridou and Charlotte Röber for their comments on Chapter 10, which ought to be the icing on the cake. It is great to see the research group on European Criminal Law functioning in practice.

I am most grateful to Hans Kluwer and Ann-Christin Maak for their patience and confidence that significantly contributed to the third edition of this work. Last, but not least, I thank Rebecca Pound for her time and effort in editing the manuscript.

* Dreptul Penal European. O abordare integrativă, Editura Cartier, București 2014.

I would appreciate any comments and observations, and would be happy to try and answer any questions that any reader might have (andre.klip@maastrichtuniversity.nl).

André Klip
Maastricht, October 2015

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- Regulation 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials, OJ 2004, L 345/1 192
- Regulation 562/2006 of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders, OJ 2006, L 105/1 30
- Regulation 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, OJ 2007, L 53/1 50
- Regulation 423/2007 of 19 April 2007 concerning restrictive measures against Iran, OJ 2007, L 103/1 220
- Regulation 904/2010 on administrative cooperation and combating fraud in the field of value added tax, 7 October 2010, OJ 2010, L 268/1 389
- Regulation 1215/2012 of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ 2012, L 351/1 [*Regulation 1215/2012 on Jurisdiction and Recognition of Civil Judgments*] 61, 217, 281, 289, 395, 411, 412, 414, 422, 426, 428, 451, 455, 466, 532
- Regulation 603/2013 of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, OJ 2013, L 180/1 [*Eurodac Regulation 603/2013*] 81, 357, 441, 486
- Regulation 883/2013 of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, OJ 2013, L 248/1 [*Regulation 883/2013 concerning OLAF Investigations*] 301, 312, 313
- Regulation 596/2014 of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, OJ 2014, L 173/1 [*Market Abuse Regulation 596/2014*] 195, 233, 234
- Regulation 2015/1525 of 9 September 2015 amending Council Regulation (EC) No 515/97 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, OJ 2015, L 243/1 390

LIST OF ABBREVIATIONS

CISA	Convention Implementing the Schengen Agreement
ECHR	European Convention of Human Rights
EComHR	European Commission of Human Rights
ECtHR	European Court of Human Rights
EPPO	European Public Prosecutor's Office
ICC	International Criminal Court
OJ	Official Journal of the European Union
OLAF	Office de Coordination de la Lutte Anti-Fraude
par.	paragraph
SIS	Schengen Information System
TEU	Treaty on European Union (post-Lisbon)
TFEU	Treaty on the Functioning of the European Union
VAT	Value Added Tax