BUILDING A COMMON EU JUSTICE AREA: REINFORCING TRUST AND A RIGHTS OF SUSPECTS-CENTRIC APPROACH

European cooperation in the field of criminal justice has not been exempted from obstacles. Still, during the last two decades significant achievements and a dynamic legislative framework has been devised. A key motor behind this integrationist process has been the entry into force of the Lisbon Treaty in December 2009. This Treaty has fundamentally transformed 'the rules of the game' by injecting the fundamentals of the 'Community method of cooperation' – institutions, decision making and legal acts – and the EU Charter of Fundamental Rights at the heart of judicial cooperation in criminal matters.

The 'Lisbonisation' of EU criminal justice policy was expected to address some of the most profound caveats characterizing European criminal justice law and policy making during the previous Maastricht and Amsterdam Treaties (1993-2008) eras. The following three caveats merit critical attention:

First, a decision-making procedure which was purely Member States-centric and tainted by secrecy, lack of transparency and an obscure set of legal instruments, not allowing for any democratic scrutiny by the European Parliament and judicial control by the Court of Justice of the European Union (CJEU). That pre-Lisbon Treaty system additionally envisaged an extremely weak position by the European Commission to enforce EU Member States' implementation of their commitments under EU legislation.

Second, the 'intergovernmentalism' characterizing EU criminal justice policy, with EU Member States and the Justice and Home Affairs Council being in the sole driving seat, which in turn meant a disproportionate priority given to a *law-enforcement and national security-driven* rationale in *the kind* of legislative outputs which emerged from the Council rooms, with the so-called 'European Arrest Warrant' (EAW) Framework Decision 2002/548/JHA being a case in point. The resulting picture by and large neglected the establishment of a parallel EU supranational framework for the rights of suspects in criminal proceedings.

Third, an additional challenge has related to one of the foundational premises upon which the common EU Justice Area emerged and has been progressively established: i.e. a widely-established presumption or 'mutual trust' between the participating EU Member States as regards the adequate level of fundamental

rights protection and rule of law guarantees in their respective national legal systems, institutional settings and judicial structures. This concept of 'mutual trust' lays in fact at the very basis of the principle of mutual recognition of criminal justice decisions around which the EU Justice Area operates. Still, that same 'trust' has been subject to several controversies during the last decade. These have concerned for instance certain EU Member States' constitutional courts raising profound concerns about its legitimacy and practical implications for domestic regimes;[285] but also with several practical cases brought to the fore by civil society organisations such as Fair Trials or JUSTICE showing systematic deficits in some national systems in what concerns prison conditions and the rights of the defense under expedited surrender and extraditions procedures.[286]

It has been five years since the Lisbon Treaty started to operate. Since then the European Parliament (Civil Liberties, and Justice and Home Affairs Committee, LIBE) has finally became co-legislator as part of the 'ordinary legislative procedure' when dealing with EU criminal justice legal acts, and a co-owner of the EU justice policy agenda. This has effectively ensured democratic scrutiny and 'better law making' in the adoption of instruments such as the European Investigation Order (EIO) (Directive 2014/41/EU), or other accompanying far-reaching legal acts dealing with the rights of suspects in criminal justice such as access to a lawyer (Directive 2013/48/EU).

The European Parliament has been also critical as regards the 'state-of-the-art' regarding extradition and surrender under the remits of the EAW. In an own-legislative initiative report adopted in January 2014, Parliament called the Commission to address the current deficits affecting the system by presenting legislative proposals including:[287] a mandatory ground of refusal by the executing Member State where there are substantial grounds to believe that execution of an EAW would lead to a breach of fundamental rights, a proportionality check when issuing mutual recognition decisions, more definitional clarity as regards

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285 Elspeth Guild: Constitutional Challenges to the European Arrest Warrant, Nijmegen: Wolf Legal Publishers, 2006

286 Fair Trials International: The European Arrest Warrant Eight Years On – Time to Amend the Framework Decision? Outline Proposal for the European Parliament own initiative legislative report, 1 February; and JUSTICE (2012), European Arrest Warrants – Ensuring an Effective Defence. London, 2012, pp. 15–16.

287 Refer to http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0039+0+DOC+XML+V0//EN

who is to be regarded a 'judicial authority' and for which kind of 'crimes' should the EAW be better utilized, etc.

The Report also underlined the unbalanced nature of the European area of criminal justice when it comes to 'rights' and the importance of furthering the work in ensuring a common EU framework on the rights of suspects and accused persons in criminal proceedings. Sadly, the Commission has not followed up the Parliament's calls.

The EIO still constitutes an excellent example or 'benchmark' in European justice cooperation. It provides irrefutable prove that ensuring the necessary judicial guarantees of fundamental rights, proportionality and national constitutional specifications can in fact go hand-to-hand with the principle of mutual recognition of criminal decisions, and therefore the mutual trust principle. Mutual recognition and fundamental rights/proportionality exceptions are not a contradiction in terms. They can go like hands holding one another in the EU legal system.[288] The EIO lays down a set of pioneering safeguards and guarantees unprecedented in previous EU criminal justice instruments like the EAW.

The EIO model allows for the exchange of evidence and mutual legal assistance between EU Member States' authorities. At the same moment it also foresees the necessary safeguards for guaranteeing the rule of law and fundamental rights by including a set of provisions preventing 'automatic' mutual recognition in the domain of evidence and making cooperation subject to Member States' constitutional regimes and proportionality and fundamental rights (EU Charter-compliance) tests. These will only but help in the practical and mutual-trust based operation of the exchange of evidence in criminal proceedings which it lays down.

The EIO also puts special emphasis on the need to ensure that 'independent judicial authority' lays at the centre of operation in the EU Criminal Justice System. This corresponds with the definition delivered by the CJEU of what is 'a court having jurisdiction' for the purposes of EU law.[289] The lack of independence of certain judicial authorities taking part in the functioning of the EAW has been identified as one of the main weaknesses affecting the current EU surrender and extradition cooperation model.[290] The independence of the judiciary is one of

288 Wouter van Ballegooij: The Nature of Mutual Recognition in European Law: Reexamining the Notion from an Individual Rights Perspective with a View to its Further Development in the Criminal Justice Area. Intersentia: Maastricht, 2015

289 C-60/12, *Baláž*, 14 November 2013.

290 Sergio Carrera – Elspeth Guild – Nicholas Hernanz: Europe's Most Wanted? Recalibrating Trust in the European Arrest Warrant System. Centre for European Policy Studies, CEPS, Brussels, 2013

the most critical featuring 'rule of law' components for the principle of mutual recognition of judgments to survive in the medium and long-run. How can a national court be 'trusted' at times of conducting a proportionality and fundamental rights test before executing an EAW if its impartiality and health-check is not duly ensured?

The EIO 'benchmark' in EU criminal justice cooperation should therefore be streamlined across the board of European legal acts in the same domain, including the EAW, as well as in instruments of mutual legal assistance and extradition with third countries such as the USA.[291]

Coming back to the role of the European Commission and the CJEU, the Lisbon Treaty introduced a Transitional Protocol 36 which limited during a period of five years since its entry into force their full enforcement powers. This period came to an end in December 2014.[292] The actual results stemming from this transition remain still to be seen. It is too early to assess their exact consequences and reach. The new First Vice-President on Rule of Law and Fundamental Rights, Frans Timmermans referred to the Commission's intentions to implement its new enforcement powers through political 'dialogue and cooperation'.[293] In his own words the new role of the Commission will mean

> *"Guaranteeing, whenever measures are decided and countries commit to implement them, that there will be a quality check. And as prevention is always better than cure, the Commission is always there to help with transposition. That's the whole point: making sure that more care is put into transposing common rules. And in any case, before any infringement proceedings, the first step will normally always be to have a constructive dialogue between the Commission and the Member State, through what we call 'EU Pilot'".*[294]

291 Sergio Carrera – Elspeth Guild – Gloria Gonzalez – Valsamis Mitsilegas: Access to Electronic Data by Third-Country Law Enforcement Authorities: Challenges to Rule of Law and Fundamental Rights. Centre for European Policy Studies, CEPS, Brussels, 2015

292 Valsamis Mitsilegas – Sergio Carrera – Katharina Eisele: "The End of the Transitional Period for Police and Criminal Justice Measures Adopted before the Lisbon Treaty: Who Monitors Trust in the European Criminal Justice Area?" CEPS Liberty and Security in Europe Series, CEPS, Brussels, 2014

293 Refer to http://europa.eu/rapid/press-release_SPEECH-14-1701_en.htm

294 Ibid.

The exact ways in which the European Commission will play that role, and the ways in which it will keep the European Parliament involved in this area, remains to be seen. Indeed, the Commission counts with a large room of maneuver at times of enforcing the transposition of EU law and bringing cases before the Luxembourg Court. The independent monitoring and objective evaluation of the ways in which EU criminal justice legislations are 'practiced' on the ground remains however one the biggest gaps in the current system. This is despite the fact Article 70 of the Treaty on the Functioning of the European Union foresees the possibility to establish *"objective and impartial evaluation of the implementation of the Union policies referred to in this Title by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition."*

The full application of the CJEU role will also bring about important changes. Despite previous case-law from Luxembourg, it is inevitable for the Court to take up and implement more effectively its function as a fundamental rights tribunal, including when it comes to EU criminal justice cooperation.[295] The controversial CJEU opinion blocking EU's accession to the European Convention of Human Rights makes that claim ever more pressing. In that Opinion the Court held that

> *"…the principle of mutual trust between the Member States is of fundamental importance in EU law, given that it allows an area without internal borders to be created and maintained. That principle requires, particularly with regard to the area of freedom, security and justice, each of those States, save in exceptional circumstances, to consider all the other Member States to be complying with EU law and particularly with the fundamental rights recognised by EU law."*[296]

The CJEU will be increasingly expected to play the role of a fundamental rights Court holding the ultimate responsibility in adjudicating what those 'exceptional circumstances' actually are, and ensuring a full application of the EU Charter of Fundamental Rights along with EU secondary legislation on criminal suspects rights when EU Member States implement EU criminal law.

295 Sergio Carrera – Bilyana Petkova: "The role and potential of civil society and human rights organizations through third party interventions before the European Courts: The case of the EU's Area of Freedom, Security and Justice". In: Mark Dawson – Elise Muir – Bruno de Witte (eds.): Judicial Activism at the Court of Justice: Causes, Responses and Solutions. Cheltenham: Edward Elgar, 2013

296 Opinion 2/13 on the compatibility of the draft agreement on the EU accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) with the EU and TFEU Treaties of 13 December 2014, CJEU, para. 191.

That notwithstanding, the post-Lisbon Treaty institutional and decision-making setting is not exempted from risks and caveats of its own. It has come along with the liberalization and expansion of 'differentiation' and Treaty-based mechanisms allowing for exceptions to the Community method of cooperation and variable geometry in Member States' participation in the adoption of legal acts. These include 'emergency brakes' and the use of 'enhanced cooperation' in those specific fields falling within the general rubric of judicial cooperation in criminal matters whenever an EU Member State could consider that a new EU Directive would fundamentally affect its domestic criminal justice systems. This may in the future lead to the multiplication of various and even competing 'areas of justice' inside the EU, which will in turn create legal uncertainty and fragmentation, potentially undermining the Treaties' goals of having a 'common' Area of Freedom, Security and Justice. The consequences of using 'enhanced cooperation' in criminal justice matters will need to be carefully examined from the perspective of its negative repercussion over the practical operability and effectiveness of the existing EU acquis in this domain.

Moreover, when 'speaking of' mutual trust, and in bringing the individual into that equation, the proliferation of a patchwork of European areas with variable degrees of harmonization and supranational Justice cooperation models for cross-border cases will inevitably result in more mistrust from EU citizens and residents about the value added of European cooperation. Any future step forward using 'variable geometry' should not lead to an uneven landscape of fundamental rights protection in the EU, permitting a lack of equal legal protections and even discriminatory treatment depending on where the person involved happens to be in the EU.[297]

This book constitutes an excellent contribution to the state of the art in the academic literature regarding EU criminal justice cooperation. The excellent analysis of the challenges pertaining to the implementation of the EAW in the Hungarian legal system opens up wider and far-reaching questions regarding the main practical and conceptual challenges characterizing the operability of European cooperation on the basis of 'intergovernmentalism' in this domain, as well as the importance (and yet also inherent risks) of furthering European harmonization. The book also provides a critical contribution at times of gaining a better understanding of the role that minimum legislative EU harmonization

297 See Sergio Carrera – Elspeth Guild: Implementing the Lisbon Treaty: Improving the Functioning of the EU on Justice and Home Affairs. European Parliament Study, Brussels, 2015

plays in ensuring the survival of the principle of mutual recognition in criminal justice matters.

After reading this fascinating book, a key message which may come to mind to those interested in the future shapes and configurations of the European Justice Area is the exact ways in which trust can be further reinforced, not only between EU Member States, or between the latter and the European institutions. But also the trust of individuals who are ultimately subject to these policies and whose rights and liberties may be at stake in these processes. It is here where a suspects' (fundamental) rights-based approach could be an essential ingredient in taking forward the next generations of European cooperation. Bringing the European Justice Area under the remits of a European Liberty Area may not be only a key condition for the very legitimacy and value added of European cooperation in this domain. It is also the *sine qua* non for a kind of European cooperation which is loyal to the constitutional and rule of law principles laid down in the EU Treaties.

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FOREWORD

The European Arrest Warrant (EAW) mostly is described as being a story of success. Law enforcement practitioners value the EAW: After it entered into force in 2004, from 2005 until 2011 approximately 79,000 EAW were issued; one quarter of it resulted in the effective surrender of the person to the requesting state.[298]

The Framework Decision on the European Arrest Warrant was the first EU Third Pillar secondary law actually shaping the mutual recognition principle in EU Member States' cooperation in criminal matters. Although in 2008 the Framework Decisions on the transnational enforcement of custodial sanctions, and the one on the European Supervision Order significantly weakened the strict abolition of the double criminality requirement for the so called listed offences, the Framework Decision on the EAW still remains the role model for mutual recognition in criminal matters. The implementation of this mutual recognition

298 Sergio Carrera – Elspeth Guild – Nicholas Hernanz: op. cit.

principle marks a significant new level of mutual legal assistance; and the author of the present volume advocates the need for further improvement.

Since the European legislator finished its work, and it is time for implementing and applying the EAW in the Member States, the dialogue between the European Court of Justice in Luxembourg and the Member States' courts also evaluates the EAW mutual recognition role model. This present study provides insights both into the Hungarian Constitutional Court on the implementation of the EAW rules in Hungary as well as on its practical application in a particular case. In that Tobin case reported in this book the EAW did not result into surrender. While agreeing that transnational elements of a case should not lead to non-enforcement of the law, from today's point of view I would argue that the Tobin case rather should have been settled by using the legal instruments on the transnational enforcement of decisions imposing custodial sentences. Yet, the particular 2008 Framework Decision on this issue also proves that there is a need for further developing the mutual recognition role model once established by the EAW law. While admitting that binding and enforceable rules are needed I would put into question that the model of strict enumerative reasons for refusal of recognition are sufficient.

Obviously, further discussion is needed. Mutual trust needs a solid legal basis. Thanks to the author of this study the Hungarian contribution to this dialogue is now available for researchers, practitioners, and legislators throughout the EU.

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INTRODUCTION BY THE AUTHOR

The present volume analyses a European Union piece of legislation, the European Arrest Warrant (hereinafter also referred to as "EAW") adopted in the framework of the third pillar, i.e. police and judicial cooperation in criminal matters.[299] The EAW seems to be a major step as compared to previous rules on extradition, however its application is not without conflicts. The fate of the framework decision reflects the deficiencies of cooperation in the third pillar. The principle of "mutual recognition" defined as the cornerstone of a genuine European area of justice by the Tampere European Council's Presidency conclusions, is only present at a political declarative level, however another branch of government, equally important from the point of view of criminal cooperation, i.e. the judiciary has serious – primarily constitutional and human rights-based – doubts about closer cooperation. The even partial giving up of national criminal sovereignty is still one of the most sensitive issues within the European Union, and this will remain so until mutual confidence has been established.

In the present book I do not intend to give an overall picture of the EAW, mutual trust or mutual recognition in field of criminal cooperation among the Member States. Neither do I strive to provide a comparative law analysis. Others have done it excellently before, and one could only repeat their findings.[300] Instead the objective is to familiarize scholars with the Hungarian jurisdiction, often abandoned in the academic literature.

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299 2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, Official Journal L 190, 18. 07. 2002, 1–20. The document was modified by Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial, Official Journal L 81, 27. 3. 2009, 24–36. In the following this amended legal instrument is understood under the term "Framework Decision".

300 See for example Libor Klimek: European Arrest Warrant. Cham, Heidelberg, New York, Dordrecht, London: Springer, 2015; Elspeth Guild – Florian Geyer (eds.): Security versus Justice?: Police and Judicial Cooperation in the European Union, Aldershot: Ashgate, 2013; Massimo Fichera: The Implementation of the European Arrest Warrant in the European Union: law, policy and practice, Cambridge: Intersentia, 2011; Elspeth Guild – Luisa Marin (eds.): Still not resolved?: constitutional issues of the European Arrest Warrant, Nijmegen: Wolf Legal Publishers, 2009; Adam Górski – Piotr Hofmański: The European Arrest Warrant and its Implementation in the Member States of the European Union, Warszawa: C. H. Beck, 2008; Elspeth Guild (ed.): Constitutional challenges to the European arrest warrant, Nijmegen: Wolf Legal Publishers, 2006.

In the first part of the English part of this book I will explore the relevant milestones of former third pillar cooperation in the EU, and the legal institution under scrutiny. In the second part I will overview and evaluate the Hungarian Counstitutional Court's decisions in relation to the EAW. In addition to apex courts, ordinary courts may also have their doubts as to the EAW. In order to illustrate this, I will provide a detailed case study in the third part, discussing the fate of an actual EAW issued by Hungary requesting an Irish citizen from Ireland for the sake of executing a prison sentence. Whereas the objective of the present volume is not to give a thorough legal analysis of the EAW or mutual-trust-based instruments, the cases will prove certain hypotheses with regard to European criminal justice.

I will prove that European criminal justice that used to operate along the lines of intergovernmentalism was inefficient. Historically joint crime prevention and criminal investigation was regarded as the counterpoint of free movement of persons.[301] However, a field of law which develops slowly on a case-by-case basis is not suitable for remedying the negative side-effects of an enchanced freedom of movement. It is suggested that only closer cooperation between Member States pursuant the dictates of supranational EU law could ensure effective crime prevention and prosecution in a progressively uniting Europe. Although the Lisbon Treaty removed the EU Treaties' pillar system and made criminal law subject to supranationalism, the traces of intergovernmentalism remain. Union law still provides for a number of exceptions and exemptions in the field of international criminal cooperation. Also voices anxious to retain sovereignity over national criminal law and advocating the reallocation of powers between Member States and the Union – to the detriment of the latter – in the area of freedom, security and justice become louder and louder. Therefore I consider the seemingly obvious point on blaming European criminal justice to be ineffective or even inoperational if intergovernmentalism was retained, an important one. Lobbying for 'less Europe' in the criminal field will lead to substandard laws representing shallow compromises, inefficient application and lack of enforceability.

Second, and related to the previous point, state criminal authority needs to be excercised on a precisely designated, narrow field in order for it to correspond to the rule of law. If this field is defined too broadly, it will easily end up in the tyranny of the state; but if the state does not exercise its criminal authority, such a situation will also destroy the rule of law: it will lead to anarchy and chaos and the citizens will be right in demanding back the state monopoly of revenge. The

301 See: Section 2 of Article 3 of the Treaty on the European Union (formerly Article 2 of EC Treaty).

state's criminal power, just like governance in general, is now exercised on several levels, i.e. on the local, regional, state, Union and Council of Europe levels. Criminal law – traditionally goverened by nation states – needs to be adjusted to the reality of multilevel governance and some of the state criminal powers have to be conferred upon other levels of governance, for example, on the Union.

My third hypothesis supercedes the domain of criminal law. It is suggested that neither the partial communautarisation of criminal law, nor the unconditional acceptance of the principle of primacy in the field will occur – and consequently, Member States will not relinquish the respective part of their national sovereignty – until the human rights paradigm, namely the EU's so-called fundamental rights culture,[302] is not expanded with respect to the field of criminal law including criminal procedural guarantees and minimum harmonisation rules regarding prison conditions.

I would like to express my gratitude to all those who contributed to the realisation of the present book. First and foremost I would like to thank Dr. György Virág and Dr. György Vókó who were consecutively Directors of the National Institute of Criminology, Hungary (OKRI) for providing a unique and peaceful atmosphere ideal for conducting criminal law research. I owe thanks to my family's continuous support. I would also like to thank all those who helped me understand the Tobin case during my research: to OKRI researcher dr. Anna Kiss, who called my attention to the case and who made it possible for a wider professional audience to become familiar with the details of the case[303]; to the former spokesperson of the Office of the Prosecutor General in Hungary dr. Zoltán Borbély, with whom we followed the events and shared the developments of the case with the media[304]; to the legal representative

302 Communication from the Commission, Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, Document COM(2010)0573, final, 19 October 2010.

303 Anna Kiss: A Tobin-ügy: Lisszabon előtt, Lisszabon után, avagy az európai elfogatóparancsról. Interjú Bárd Petrával. [The Tobin case: before and after Lisbon, i.e. talking about the European Arrest Warrant, interview with Petra Bárd]. Ügyvédvilág, 2010/1., pp. 12–13., ugyvedvilag.hu/laparchivum.php?pdf=203; Anna Kiss: Az európai elfogatóparancsról egy ír elkövető magyar ügye kapcsán. Interjú dr. Bárd Petrával [Talking about the European Arrest Warrant in relation to the Hungary-based case of an Irish offender, interview with Dr. Petra Bárd]. Ügyészek Lapja, 2008/2., pp. 37–45.

304 As an example for the joint media appearances of Zoltán Borbély and Petra Bárd on the topic, see Echo TV, Court stories – on the case of Ciaran Tobin, December 9, 2009; Duna Televízió, Hearing of the Leányfalu killer driver postponed, December 2, 2009; Kossuth rádió, The court may decide on the extradition of the Irish killer driver in early December, interview by György

of the Zoltai family dr. István Tóth, who shared his litigation strategy with me; to Mr. Ferenc Mészáros, who was and is conscientiously collecting and presenting all steps of the Tobin case on the internet[305]; and to an Irish legal scholar friend of mine, who on the one hand explained to me some of the points of the Irish common law procedure, and on the other hand, reviewed the English version of the manuscript. Ms. Anna Giricz provided essential technical help, Ms. Andrea Takács thoroughly proofred the manuscript, while OKRI librarian Ms Irén Jónás made all pieces of literature needed accessible throughout the research. Parts of the present volume already appeared in English and Hungarian languages, and in shorter versions.[306] An earlier English version summarising the cases decided until 2009 was published as a chapter in the book „Still Not Resolved?: Constitutional Issues of the European Arrest Warrant" edited by Elspeth Guild and Luisa Marin.[307] I owe thanks to the Editors for supporting the publication of the updated and extended version of that book chapter. Last, but not least I would like to express my gratitude to Hungary's Prosecution Service, and in particular the Office of the Prosecutor General in Hungary for providing direct and indirect support for the realisation of the present volume.

Baló with Petra Bárd and Zoltán Borbély, 26 November 2009; Juventus rádió, Attila Várkonyi talks to Petra Bárd and Zoltán Borbély about the surrender of Ciaran Tobin, 21 November 2009.

305 http://ciaran-tobin.blogspot.hu/

306 Bárd Petra: A bűnügyi együttműködés csapdái: A Tobin-ügy. In: Vókó György (ed.): Kriminológiai Tanulmányok 51. Budapest: Országos Kriminológiai Intézet, 2014, 93–109. o.; Bárd Petra: A rocky road. Irish Law Society Gazette, October 2014, pp. 38–41. https://www.lawsociety.ie/Documents/Gazette/Gazette%202014/October-2014.pdf; Bárd Petra: Európai Unió: a szabadság, a biztonság vagy a jog érvényesülésének térsége? In: Virág György (ed.): Kriminológiai Tanulmányok 46. Budapest: Országos Kriminológiai Intézet, 2009, 95–114. o.; Bárd Petra: A kölcsönös bizalom elvével szembeni alkotmányos aggályok az európai elfogatóparancs példáján keresztül. In: Virág György (ed.): Kriminológiai Tanulmányok 45. Budapest: Országos Kriminológiai Intézet, 2008, 175–192. o.; Bárd, Petra: You Can Leave Your Hat On: Freedom, Security and Justice: Where is the Emphasis? In: Harald Eberhard – Konrad Lachmayer – Gregor Ribarov – Gerhald Thallinger (eds.): Constitutional Limits to Security. Wien: Nomos, 2009, pp. 135–165.; Bárd, Petra: Traps of Judicial Cooperation in Criminal Matters: The Tobin Case. In: Marcel Szabó – Petra Lea Láncos – Réka Varga – Tamás Molnár (eds.): Hungarian Yearbook of International Law and European Law. The Hague: Eleven International Publishing, 2014, pp. 469–505,; Bárd, Petra: The Rough Road of EU Criminal Cooperation: The Tobin case. Ügyészek Lapja, 2014/6., 157–168. o.; Bárd Petra: Egy jogintézmény hányatott sorsa: az európai elfogatóparancs. Rendészeti Szemle, 2008/12., 3–26. o.; Bárd Petra: Az ír gázoló és az európai büntetőjog, www.szuveren.hu, 2014. március 7., http://szuveren.hu/jog/az-ir-gazolo-es-az-europai-buntetojog; Bárd, Petra: The European Arrest Warrant: category and practice, http://blogeuropa.eu/2008/09/30/the-european-arrest-warrant-category-and-practice/, http://www.ciaran-tobin.com/2008/10/ciaran-tobin-in-blogeuropa.html

307 Elspeth Guild – Luisa Marin (eds.): Still not resolved?: constitutional issues of the European Arrest Warrant, Nijmegen: Wolf Legal Publishers, 2009, pp. 209–228.