

Constantin Stefanou and Helen Xanthaki (eds), ***Towards a European Criminal Record***. Cambridge: Cambridge University Press, 2008. Pp. 384. £65.00. ISBN: 9780521866699.

If anyone were best suited to writing a book on the European criminal record (ECR) it would certainly be the current editors. The EC Commission commissioned them to study and analyse the potential of creating an ECR, and it is on the basis of their reports that the matter has generally progressed within the legislative committees of the Union. Moreover, their studies have been used as benchmarks in relevant Commission discussions. It is therefore no accident that they have compiled the essays which are incorporated in this book in such a manner that reflects a very significant practical as well as theoretical expertise by means of an insider's viewpoint.

To the reader who is not wholly familiar with the growing field of EC criminal law there is something misleading in the title. It may be thought that the authors are analysing a concept which already exists: the ECR. Instead, the subject matter of the book does not exist, at least in the form envisaged by its authors. The first chapters clearly focus on relevant efforts to agree on what an ECR should look like, what alternatives are available, and what commonalities or differences in the legal systems of EC Member States hinder or facilitate this process. By the time of writing, no decision had been reached on a binding instrument which would regulate this matter in a unified manner. The authors set out a number of reasons why this project, although laudable and necessary, is problematic. For one thing, there is little coherence and correlation between Europe's legal traditions and laws in the criminal sphere. By way of illustration, erasure of a particular crime in one country takes place after two years, whereas in another country the time limit is 10 years. How is this problem to be solved in a single ECR? Moreover, there are minor technical issues which ultimately cause numerous practical obstacles. For example, the authors identify the existence of three families of alphabets

in Europe (i.e. Greek, Latin, and Cyrillic), which would make it difficult to read for investigators using such a database. The authors painstakingly identify these problem areas and seek out all alternative methods through which an ECR would yield positive results. They do so not only from a legal point of view, but also from a logistic and political perspective, which is in fact one of the book's principal scholarly highlights.

The authors have done an excellently thorough job of discerning the possible implications arising out of the various modes of operation of the ECR. For example, in order to counter the concerns of some states which did not want a new institution to take charge of a single criminal database and refused to give up most of their sovereignty in this area, the EC Commission proposed a parallel system. According to this, criminal records would remain within the national domain, but other states would have remote access to them and be able to access them electronically. Although this alternative alleviates some of the concerns identified above, it also raises other insurmountable problems. First, it necessitates a great deal of duplication, as the file would have to be translated and uploaded anew by the authorities, which in turn generates significant costs. Secondly, it would fail to satisfy the privacy laws of all EC Member States, and in fact it would do little with regard to the sovereignty claims exposed above. These are just a few of the possible obstacles which even a compromise process entails.

This does not mean, however, that a hybrid ECR does not function within the European Union. This obviously is not predicated on a Framework Decision or other binding legislative instrument, but exists through the Union's common legal tradition (particularly the principles of mutual recognition, approximation, subsidiarity, and others) and on the basis of other instruments which require some degree of criminal record exchange, such as the Schengen regime, or even the 2000 EC Mutual Legal Assistance Convention. This *sui generis*, decentralized and context-specific ECR works well in its particular environment and states experience few problems with its implementation. This is probably down to

the limited sphere in which it operates. The reader will find in this book in what manner and under what procedures EC Member States engage in practices akin to facilitating the exchange of their national criminal records.

The book is a treasure of original and practical information in which the editors have done a magnificent job of dictating what the authors should concern themselves with, particularly as regards the chapters dealing with domestic implementation. Overall, the book is unique in its field, very authoritative, and analyses issues that we are only just coming to grips with in the burgeoning field of EC criminal law. There is perhaps the feeling that the authors could have considered how the European Arrest Warrant enlightens their discussion as a context-specific system in its own right in which some exchange of information takes place and which is premised on the concept of mutual recognition; but this is hardly a criticism, more a suggestion. I recommend that the book be read by any scholar or student of EC and international criminal law and those interested in the Third Pillar of the European Union. This is instantly the standard work on the topic.

Individual Contributions

- Constantin Stefanou and Helen Xanthaki*, Introduction: How the idea of a European Criminal Record came to be;
Helen Xanthaki, The European Criminal Record: analysis;
Constantin Stefanou, The European Criminal Record: the political parameters;
Alexandra Xanthaki, The European Criminal Record: human rights considerations;
Robert Kert, The European Criminal Record in Austria;
Jaroslav Fenyk, The European Criminal Record in the Czech Republic;
Lorenz Böllinger, The European Criminal Record in Germany;
Maria Gavouneli and Pantelis Traianos, The European Criminal Record in Greece;

Katalin Ligeti, The European Criminal Record in Hungary;
Ivana Bacik, The European Criminal Record in Ireland;
Oswald Jansen, The European Criminal Record in the Netherlands;
Katja Šugman and Dragan Petrovec, The European Criminal Record in Slovenia;
Anna Ondrejova, The European Criminal Record in Slovakia;
Francisco Javier García Fernández, The European Criminal Record in Spain;
Lisa Webley, The European Criminal Record in England and Wales;
Valsamis Mitsilegas, Databases in the area of freedom, security and justice: lessons for the centralisation of records and their maximum exchange;
Els de Busser, A European Criminal Records Database: an integrated model;
Helen Xanthaki, The European Criminal Record: feasible or folly?;
Constantin Stefanou and Helen Xanthaki, Conclusions.

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