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Welcome

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European Law Institute

Jurisdiction in criminal law

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Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law

- ELI-National Research Fund Luxembourg
- Project leaders:
 - Katalin Ligeti (Luxembourg)
 - John Vervaele (Utrecht)
 - André Klip (Maastricht)

Jurisdictional principles

- Territoriality
 - Personality (active/ passive)
 - Domicile
 - Protective
 - Universality
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- Transfer of proceedings

Concurrent jurisdiction by definition

- Crimes with a cross-border element (act/ perpetrator/ victim/ proceeds)
- Examples from recent ECJ case law:
 - Spasic, C-129/14
 - M., C-398/12

Problems

- Who will take the initiative?
- Double work in investigation
- Disputes about which state should do the case
- Accused faced with two proceedings and double punishment

Attempts to regulate jurisdictional problems

- 1990 Council of Europe report on extra-territorial jurisdiction
- 2003 Eurojust guidelines to determine the most appropriate state for prosecution
- Framework Decision 2009/948 on Conflicts of Jurisdiction

Article 82, par. 1 – legal mandate

- Judicial cooperation based on mutual recognition
- Approximation
- Measures to:
 - A. ensure recognition
 - B. prevent/settle conflicts of jurisdiction
 - C. support training judiciary
 - D. facilitate cooperation

Jurisdiction in civil law

- 1968 Brussels Convention
- Regulation 44/2001 on civil judgments
- Regulation 1215/2012 on Jurisdiction and Recognition of Civil Judgments
- Regulation 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility

Ambitions

- Transparent jurisdiction within the EU
- Prevention of double jeopardy
- Prevention of double work
- Considering all interests (states, accused, victim/ witness, efficiency/ costs)

- Is exclusive jurisdiction in criminal law possible?
- Is are practical criteria possible?

State of the research project

- Development of three scenario's:
- Scenario 1: minimalistic, further practical improvement of the current mechanism;
- Scenario 2: a coherent set of criteria and a ranking order of jurisdictional principles

Scenario 3

- Maximalistic option: exclusive jurisdiction for one Member State
- Area Freedom, Security and Justice – mutual trust and mutual recognition
- Territoriality and locus delicti
- Challenges of crime in the information society

Completion strategy of the project

- Steps to take after Vienna