

Transnational cooperation in criminal matters and the safeguarding of human rights

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Abstract

In this article we will try to pinpoint the responsibilities of states involved in mutual assistance in criminal matters within the EU framework, with respect to the effective enforcement of the European Convention on Human Rights. What responsibilities do the requested and the requesting state have? What are the risks for effective enforcement under the current system of transnational cooperation (based on mutual trust) and how, if at all, are these risks to be countered without undermining the cooperation itself? This analysis is preceded by a more general introduction into the case law of the ECtHR on transnational cooperation. The focus will be on cooperation within the EU, so as to be able to take into account the special features of cooperation under the EU Treaty. In a separate paragraph attention is given to the new forms of cooperation that are currently in use or are being developed within the EU framework, to wit the joint investigation teams (JIT) and the proposal for a European Evidence Warrant (EEW).

Keywords

mutual assistance in criminal matters, exchange of information, human rights, fair trial, privacy, state responsibility

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