EU CRIMINAL JUSTICE AND THE 
CHALLENGES OF DIVERSITY

EU Criminal Justice and the Challenges of Diversity examines how questions of cultural difference between Member States’ legal traditions are being constructed, addressed, and resolved in the development of the European Area of Freedom, Security and Justice. The volume brings together leading socio-legal scholars and criminal justice professors from eight European countries and combines analytical approaches rooted in the social sciences with more normative approaches based on legal doctrine. It examines the construction of a common European criminal policy, explores some of the paths that may be followed by the EU in seeking to cope with national diversity in the field of criminal justice, and finally provides some insights into various forms of legal and cultural resistance offered by Member States to the European harmonization process. In so doing, it bridges disciplinary boundaries between law and social sciences and draws in a range of perspectives from around Europe.

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EU CRIMINAL JUSTICE
AND THE CHALLENGES OF DIVERSITY

Legal Cultures in the Area of Freedom, Security and Justice

Edited by
RENAUD COLSON and STEWART FIELD
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POST-BREXIT PREFACE

Although the very theme of this book is to be found in the legal obstacles, cultural resistance and political hostility to further European integration in the field of criminal justice, the book does not consider the effect of a Member State withdrawal decision to the EU such as Brexit. The referendum in the United Kingdom took place on 23rd June 2016 when the book was in proof. When the contributions were being commissioned and prepared Brexit had seemed relatively unlikely. In retrospect that probably reflected a degree of wishful thinking on the part of the editors.

But the difficulty now is that the detailed consequences of Brexit for the EU criminal justice project are themselves difficult to envisage for the moment and are likely to emerge slowly over the next two years and even beyond. As for the relation between the UK and the EU criminal justice, the UK had already negotiated the right to opt in or out of the key measures and had been very selective in determining which projects to opt into. As part of the negotiations for Brexit, one of the issues will be the extent to which, and how, the United Kingdom and the EU wish to cooperate and coordinate approaches to criminal justice practice in the light of the continuing policy relevance of crime and security issues raised by what will remain, in the light of broader globalizing tendencies, very significant cross-border exchanges. If Brexit is actually implemented, the difference will be that rather than unilateral decisions by the United Kingdom to participate in particular elements of the process, we are likely to see further bilateral negotiations between the UK and the EU over procedures for the execution of arrest warrants and other requests for cooperation in relation, for example, to evidence and exchange of data.

The political impact of Brexit on perceptions of these policy issues and the appropriate responses both at the level of the political classes, the EU Commission, and the citizens of the UK and of the EU are especially difficult to predict. But the fundamental policy challenge of transnational exchange remains. As for the medium term consequences within the
EU for the harmonisation of criminal justice, that depends on whether Brexit is seen as leading to the removal of a troublesome outlier which allows a more homogenous group to move forward together or as reflecting a broader sense shared within the remaining Member States that the national identity invested in legal cultures and procedural traditions needs to be preserved. So the fundamental tensions charted by the book remain the same. But how they will play out in the light of Brexit remains to be seen.

Renaud Colson
Stewart Field
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ABBREVIATIONS

<table>
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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AG</td>
<td>Advocate General</td>
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<tr>
<td>AFSJ</td>
<td>Area of Freedom, Security and Justice</td>
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<td>CERD</td>
<td>International Convention on the Elimination of All Forms of Racial Discrimination</td>
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<td>CFREU</td>
<td>Charter of Fundamental Rights of the European Union</td>
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<td>CISA</td>
<td>Agreement Implementing the Schengen Convention</td>
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<td>COREPER</td>
<td>Committee of Permanent Representative</td>
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<td>COSI</td>
<td>Standing Committee on Internal Security</td>
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<td>CPS</td>
<td>Crown Prosecution Service</td>
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<tr>
<td>DG</td>
<td>Directorate-General</td>
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<tr>
<td>DG JLS</td>
<td>Directorate-General of Justice, Liberty, and Security</td>
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<td>DPP</td>
<td>Director of Public Prosecutions</td>
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<tr>
<td>EAW</td>
<td>European Arrest Warrant</td>
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<td>EC</td>
<td>European Community</td>
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<td>ECA 1972</td>
<td>European Communities Act 1972</td>
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<tr>
<td>ECHR</td>
<td>European Convention on Human Rights</td>
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<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<tr>
<td>ECJ</td>
<td>Court of Justice of the European Union</td>
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<tr>
<td>ECRI</td>
<td>Council of Europe's Commission against Racism and Intolerance</td>
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<td>EJN</td>
<td>European Judicial Network</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>Europol</td>
<td>European Police Office</td>
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<td>EPPO</td>
<td>European Public Prosecutor's Office</td>
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<tr>
<td>FD</td>
<td>Framework Decision</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>JHA</td>
<td>Justice and Home Affairs</td>
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<tr>
<td>JIT</td>
<td>Joint Investigation Team</td>
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<td>OLAF</td>
<td>European Anti-Fraud Office</td>
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<td>OJ</td>
<td>Official Journal of the European Union</td>
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<tr>
<td>OTC</td>
<td>Organised Transnational Crime</td>
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<tr>
<td>SCC</td>
<td>Spanish Constitutional Court</td>
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xviii  ABBREVIATIONS

TEU      Treaty on European Union
TFEU     Treaty on the Functioning of the European Union
UN       United Nations
VRA 1984 Video Recordings Act 1984
WTO      World Trade Organization