Preface to the special issue „From Academia and Practice: Transnational Evidence-Gathering – Comments on the Green Paper of the EU Commission”

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The idea of this special issue goes back to a small conference organized by the Justice Ministry of Lower Saxony in Brussels on 26 May 2010 on the Commission's Green Paper on “Obtaining Evidence in Criminal Matters from One Member State to Another and Securing its Admissibility”. Of the papers presented ZIS is publishing here the opening speech of Mr. Busemann, Minister of Justice of Lower Saxony, and the presentations given by Prosecutor Schierholt and the undersigned. In addition we have invited respected colleagues from England (Spencer), France (Lelieur), Italy (Allegrezza) and Spain (Bachmaier Winter) to write comments from the perspective of their national legal orders.

The contributions adopt in general a critical approach, also the one by Minister Busemann. As a matter of principle, the concepts of mutual recognition and of the ensuing free movement of evidence are criticized. In addition, some specific aspects of the existing instruments and of the Green Paper are critically examined: in particular, the differences between national procedures and the insufficient safeguarding of fair trial guarantees are stressed.

We hope that this issue will make a contribution to the difficult ongoing debate on transnational evidence-gathering within the EU that is both academically solid and practically useful. We would like to thank the Ministry of Justice for its spontaneous willingness to cooperate, and our thanks are also due to all authors for submitting their contributions on time.

Kai Ambos, Göttingen, September 2010