INTERROGATING YOUNG SUSPECTS

Procedural Safeguards from a Legal Perspective

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(eds.)

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PREFACE AND ACKNOWLEDGEMENTS

This book is the result of the first part of the European Commission funded research project Protecting Young Suspects in Interrogations: a study on safeguards and best practice. The project consists of a legal comparative study, empirical research and the merging of the legal and empirical findings, and its aim is to identify legal and empirical patterns in the procedural protection of juvenile suspects during pre-trial interrogation. The legal study underlying this volume consisted of comparative research into existing procedural safeguards for juvenile suspects during interrogation in the legal frameworks of five selected Member States of the European Union: Belgium, England and Wales, Italy, Poland and the Netherlands. The results of the empirical research, as well as the merging of the legal and empirical findings resulting in a proposal for European minimum rules and best practice on the protection of juvenile suspects during interrogation, will be published in a second volume.

The successful completion of this project has been the joint effort of a large group of people. First and foremost we would like to thank our academic partners – and in-country researchers – for their dedication to the project and the incredible amount of high-quality work they delivered: Claudia Cesari, Deborah Felice, Jackie Hodgson, Vicky Kemp, Justyna Kusztal, Joachim Meese, Vania Patanè and Barbara Stańdo-Kawecka. Comparative legal research can at times be extremely challenging because it is not easy to convey the nuances of one’s own legal system outside its original language and culture. It was thanks to the large knowledge, flexibility, open-mindedness, patience and tenacity of our partners that we only experienced the positive sides of comparative research. Working with them has been an incredibly enriching experience, not only confined to legal matters.

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Managing and coordinating the project has been the task of the entire Maastricht project team, but three of the four members of the team (Dorris, Michele and Miet) would like to emphasise that it is in particular thanks to the outstanding daily effort of Marc van Oosterhout that everything has run smoothly and efficiently. In addition to conducting large strands of the legal and empirical research, Marc has been responsible for the many organisational and administrative tasks, ranging from setting up project meetings to managing the project website, and many others. Marc has taken up these diverse, challenging duties with the utmost positivity and perseverance and he has proven to be of inestimable value to the project.

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We thank Kris Moeremans and the staff of Intersentia for their involvement in publishing this book.

Finally, we would like to thank the European Commission for funding this project. We truly hope that its results may contribute to the current debate on how to effectively strengthen the protection of juvenile suspects during the initial stages of criminal proceedings.

Michele Panzavolta
Dorris de Vocht
Marc van Oosterhout
Miet Vanderhallen

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<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ASBOs</td>
<td>Anti-Social Behaviour Orders</td>
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<tr>
<td>CC</td>
<td>Criminal Code</td>
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<tr>
<td>CCP</td>
<td>Code of Criminal Procedure</td>
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<tr>
<td>Cost</td>
<td>Constitution of the Italian Republic</td>
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<tr>
<td>CPA</td>
<td>Child Protection Act</td>
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<td>CPS</td>
<td>Crown Prosecution Service</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CWC</td>
<td>Child Welfare Council</td>
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<td>C&amp;YP</td>
<td>Children and Young Persons Act</td>
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<tr>
<td>DTO</td>
<td>Detention and Training Order</td>
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<td>EAW</td>
<td>European Arrest Warrant</td>
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<td>ECHR</td>
<td>European Convention on Human Rights</td>
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<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<td>FME</td>
<td>forensic medical examiner</td>
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<td>HR</td>
<td>Hoge Raad</td>
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<td>JA</td>
<td>Juvenile Act</td>
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<td>LASPO</td>
<td>Legal Aid Sentencing and Punishment of Offenders Act</td>
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<td>NJ</td>
<td>Nederlandse Jurisprudentie</td>
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<td>PACE</td>
<td>Police and Criminal Evidence Act</td>
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<td>PNDs</td>
<td>Penalty Notices for Disorder</td>
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<td>UN</td>
<td>United Nations</td>
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<td>VOM</td>
<td>victim-offender mediation</td>
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<td>YJA</td>
<td>Youth Justice Act</td>
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<td>YOT</td>
<td>Youth Offending Team</td>
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<td>YPA</td>
<td>Youth Protection Act</td>
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Claudia Cesari
Claudia Cesari is a Professor of Criminal Procedure at the University of Macerata Law School (Italy). She graduated magna cum laude in criminal procedure from the University of Bologna in 1991 and obtained her PhD in criminal procedure at the same institution in 1997. Cesari served as Director of the Department of Criminal Law and Procedure at Macerata between 2007 and 2013. She now acts as Vice Director of the Law Faculty. Cesari is also Coordinator of the Centre for Studies and Research into Juvenile Justice at Macerata. Cesari’s research interests include juvenile justice, rules of evidence, and diversion techniques. She teaches criminal procedure and juvenile criminal justice. Some of Cesari’s most relevant recent publications include L’irripetibilità sopravvenuta (1999) (on an exception to the hearsay rule) and Le clausole di irrilevanza del fatto nel sistema processuale penale (2005) (on facts that do not warrant prosecution). Cesari has both edited and authored recent publications of the Centre for Studies and Research into Juvenile Justice.

Jacqueline Hodgson
Jacqueline Hodgson is Professor of Law at the University of Warwick (United Kingdom). She holds an LLB and PhD and has researched and written on issues within French, English/Welsh and comparative criminal justice, on the role of the criminal defence lawyer, the right to silence, the process of investigation and prosecution, terrorism, miscarriages of justice and suspects’ rights. Much of her work draws upon her own externally funded empirical research and she held a British Academy/Leverhulme Senior Research Fellowship from 2009–2010. Key publications include Custodial Legal Advice and the Right to Silence (1993), Standing Accused (1994), Criminal Injustice (2000), French Criminal Justice (2005), The investigation and prosecution of terrorist offences in France (2006), Suspects in Europe (2007), The extent and impact of legal representation on applications to the Criminal Cases Review Commission (2009), and Inside Police Custody (2014). She has advised Parliamentary Select Committees and EU impact assessment studies, and her research has been relied on by the Special Immigration Appeals Commission and in European Arrest Warrant proceedings. She is an elected member of the JUSTICE Council and a Fellow of the Academy of Social Sciences. This current project on safeguards for juveniles complements her recently completed European Commission-funded project – an empirical comparative study of safeguards for suspects.
Vicky Kemp
Vicky Kemp, a Principal Research Fellow at the University of Nottingham (United Kingdom), is an experienced researcher having conducted extensive empirical studies into the criminal justice system. After having completed her doctorate at the University of Cambridge, which focused on youth justice reforms under the Crime and Disorder Act 1998, she joined the Legal Services Research Centre, an internationally recognised and influential leader in the field of access to justice research. In that role she managed a number of empirical studies, including a survey of people drawn into the criminal process and a study of youth courts, evaluating new innovative arrangements involving duty solicitors based in police stations, and was responsible for a large-scale study into the take-up of police station legal advice. Key publications include *Transforming legal aid: Access to criminal defence services* (2010), ‘Children, young people and requests for police station legal advice: 25 years on from PACE’ in *Youth Justice* (2011), *Bridewell Legal Advice Study: adopting a ‘whole-systems’ approach to police station legal advice – Interim and Final Reports* (2012 and 2013) and ‘PACE, performance targets and legal protections’ in *Criminal Law Review* (2014). She is a member of the International Legal Aid Group and the British Society of Criminology.

Justyna Kusztal
Justyna Kusztal (PhD) is employed as assistant professor in the Institute of Pedagogy of the Jagiellonian University in Kraków (Poland). She graduated in law and pedagogy with a specialisation in social rehabilitation at the Jagiellonian University. She obtained her PhD in 2006 in the field of pedagogy at the same institution. Her doctoral dissertation approached a comparative study of social rehabilitation systems of juvenile delinquents in Poland and Germany. She has worked in various types of research teams and is the author of approximately forty articles in the area of social prevention and rehabilitation and problems of juvenile delinquency from a Polish and an international perspective. Her interests are focused on European trends in social prevention of juvenile delinquency and criminal policy in this area.

Joachim Meese
Joachim Meese is a Doctor of law and has a Master’s degree in criminology. He is a Professor at the University of Antwerp (Belgium). Joachim Meese is the author of many academic publications. His doctoral thesis, *De duur van het strafproces* (Length of criminal proceedings, 2006), considers the concepts of the statutes of limitations and the right to be tried within a reasonable time. This book has become a standard work in Belgium. Joachim Meese is also a lawyer, admitted to the Bar of Ghent in 1999. As a lawyer, he is a managing partner at Van Steenbrugge & Partners. He regularly participates in seminars and conferences on criminal law and criminal procedure.
Marc van Oosterhout
Marc van Oosterhout holds two degrees in law (criminal law and forensics) from Maastricht University (the Netherlands). His main research interests are in the fields of (European) criminal procedure and fundamental (suspects’) rights, police proceedings and interrogation. During the course of this research project, Marc van Oosterhout was a researcher at the Department of Criminal Law and Criminology at Maastricht University. Before that he had been appointed as a researcher and tutor at the same institution. Earlier he was involved in another European project studying rights of suspects in police detention during which he conducted fieldwork in the Netherlands and Scotland. Besides empirical research, he was involved in the daily operational tasks that are required in large-scale research projects. Due to his research and operational skills, Marc has conducted legal and empirical research in the Netherlands and Belgium and is part of the project management team. He has also been responsible for social media (project website, LinkedIn and Twitter account) during the project. At present, Marc van Oosterhout is a project manager at AMBER Alert Netherlands where he is responsible for further local embedding of AMBER Alert, organising and analysing an EU regional police cooperation pilot and various other projects.

Michele Panzavolta
Michele Panzavolta is Associate Professor of Criminal Law at the University of Leuven (Belgium) and part-time Assistant Professor at the University of Maastricht (the Netherlands), where he was a Marie-Curie Fellow for a research on intelligence. He graduated from the University of Bologna (Italy) and obtained his doctorate at the University of Urbino (Italy). He was a postdoctoral fellow at the University of Bologna and a visiting scholar at the University of Cambridge. He is a qualified attorney at the Bar of Bologna and has experience as a practicing criminal lawyer in Italy. He specialises in European and international criminal law and in comparative studies on criminal law and procedure. Besides juvenile criminal justice, his research interests are in intelligence-related topics (surveillance, intelligence analysis, relationship between police and judicial bodies and intelligence services, cybercrime, et cetera), financial crime and asset recovery and, more generally, the protection of individual rights in criminal matters.

Miet Vanderhallen
Miet Vanderhallen is an Assistant Professor of Criminology at Maastricht University (the Netherlands) and an Assistant Professor of Psychology and Law at Antwerp University (Belgium). She holds a degree and PhD in criminology (Catholic University of Leuven, Belgium). She has conducted extensive empirical studies on various aspects of investigative interviewing, such as rapport building, suspect interviewing, legal advice, training and supervision. Miet
Vanderhallen has published many (inter)national articles and book chapters on investigative interviewing. Recently, she has participated in several EU studies on interviewing suspects, including *Procedural rights of suspects in police detention in the EU: empirical investigation and promoting best practice* (JUST/2010/JPEN/AG/1578). In addition to her research activities, she is involved in interview training programs at various police academies.

**Dorris de Vocht**

Dorris de Vocht is an Assistant Professor in the Department of Criminal Law and Criminology at Maastricht University (the Netherlands). She holds a degree in law (with honors) and a PhD from the same institution. In 2009 she successfully defended her doctoral thesis on the right to legal assistance in post-communist Poland. She has a special interest in procedural safeguards for suspects and defendants especially from a comparative (ECHR as well as EU) perspective. After obtaining her doctorate, she has participated in several EU-funded comparative legal studies such as *EU Procedural Rights in Criminal Proceedings* (JSL/2008/D3/002). She coordinates and teaches various bachelors and masters courses in the field of criminal (procedural) law and is a regular author in various Dutch journals and commentaries, such as *Tekst and Commentaar Strafvoering* (C.P.M. Cleiren and J.F. Nijboer, eds.). Since 2014 she is also a deputy judge with the District Court of Limburg.

**Barbara Stańdo-Kawecka**

Barbara Stańdo-Kawecka is Professor of Law and Head of the Department of Penitentiary Law and Policy at the Faculty of Law, Jagiellonian University in Kraków (Poland). She graduated in special pedagogy and law from the Jagiellonian University. At the same institution she obtained her PhD and defended her habilitation thesis. Her main research interests are on criminal policy, juvenile law, prison systems and penitentiary policy. She took part in several international research projects concerning juvenile justice, restorative justice and prison systems. Her past publications include chapters on juvenile justice system in Poland (in *Juvenile Justice Systems in Europe: Current Situation and Reform Developments*, 2010) and long-term prisoners in Poland (in *Long-Term Imprisonment and Human Rights*, 2014).