Suspects in Europe

Procedural Rights at the Investigative Stage of the Criminal Process in the European Union
Suspects in Europe. Procedural Rights at the Investigative Stage of the Criminal Process in the European Union

D/2007/7849/5
NUR 824

© 2007 Intersentia Antwerpen – Oxford

No part of this book may be reproduced in any form, by print, photo copy, microfilm or any other means, without written permission from the author.
IUS COMMUNE EUROPÆUM

A peer-reviewed book series in which the common foundations of the legal systems of the member states of the European Community are the central focus.

The *Ius Commune Europæum* series includes horizontal comparative legal studies as well as studies on the effect of treaties within the national legal systems. All the classic fields of law are covered. The books are published in various European languages under the auspices of METRO, the Institute for Transnational Legal Research at the Maastricht University.

Editorial Board: Prof. Dr. J. SMITS (chair), Prof. Dr. M. FAURE and Prof. Dr. E. VOS.

Recently published:

Volume 55: *Gehuwd of niet: maakt het iets uit?*, C. FORDER and A. VERBEKE (eds.)
Volume 56: *European Integration and Law*, D. CURTIN, A. KLIP, J. SMITS and J. MCCAHERY (eds.)
Volume 57: *The Right Judge for Each Case: A study of Case Assignment and Impartiality in Six European Judicatures*, P. LANGBROEK and M. FABRI (eds.)
Volume 58: *Grensoverschrijdend Recht*, M. FAURE and M. PEETERS (eds.)
Volume 59: *Towards a Unified System of Land Burdens?*, S. VAN ERP and B. AKKERMANS (eds.)
Volume 60: *Contract Interpretation and Gap Filling: Comparative and Theoretical Perspectives*, N. KORNET
Volume 62: *Food Safety Regulation in Europe. A Comparative Institutional Analysis*, E. VOS and F. WENDLER (eds.)
Volume 63: *Quality of Judicial Organisation and Checks and Balances*, G.Y. NG (ed.)
This book is the result of an international research project examining the nature of the legal protections provided to suspects in the investigative stage of criminal proceedings in a range of EU countries – Belgium, England and Wales, Germany, Greece, Italy, the Netherlands and Poland – from both a theoretical and practice-based perspective. Knowledge of procedural rights such as criminal defence provision across Europe is patchy and the accounts that exist often differ widely from practice. The study aims to provide a more contextual understanding of the criminal defence role across different European jurisdictions, considering the legal and procedural rules in place and the implications which the pre-trial stage process has for the trial stage.

The context for this project is the increasingly proactive nature of EU activity in matters of criminal justice, concerning both transborder crime and domestic provisions. In spring 2004 the European Commission proposed that minimum safeguards for criminal investigation be agreed by member states and published a draft framework decision comprising *inter alia* the right to legal assistance. Since then, negotiations have continued with increasing opposition to the proposal emerging from member states. One of the main arguments against a framework decision is that the ECHR already guarantees procedural rights to suspects, and member states are obliged to comply with this. At the time of the completion of this book it is still uncertain whether an agreement on minimum standards in compliance with the ECHR for suspects in criminal proceedings within the EU can be reached.

The contributions in this book demonstrate that procedures vary enormously across EU jurisdictions as does the level of legal protection of suspects in criminal proceedings in practice. It also makes clear how important it is to gain an understanding of the ways in which these systems function, when policies are to be adopted that aim to develop standards and consistency in the protection of rights of individuals in the EU. They also demonstrate that there is still a great deal of research that remains to be done.

This book would not have been possible without the participation of academics and practicing lawyers in the research group, willing to share their experience and expertise in discussions that have encouraged critical reflection. We
want to express our thanks to Michele Caianiello, Stef De Decker, Zinovia Dellidou, Jan Fermon, Giulio Illuminati, Piotr Kruszyński, Christos Naintos, Franz Salditt, Frank Verbruggen and Thomas Weigend for their support, inspiration and contributions.

Our warm thanks also go to Dorris de Vocht and Mark Jackson for their editorial support and Yleen Simonis at METRO, the Institute for Transnational Legal Research at the University of Maastricht for editing the text of the book.

Last but not least we are grateful for the financial support provided by the AGIS Programme 2005 of the European Commission – Directorate-General Justice, Freedom And Security, without which this project would not have been possible.

March 2007

Ed Cape
Jacqueline Hodgson
Ties Prakken
Taru Spronken
TABLE OF CONTENTS

IUS COMMUNE EUROPAEUM ................................................................................ V

PREFACE ................................................................................................................ VII

TABLE OF CONTENTS ............................................................................................. IX

BIOGRAPHIES ........................................................................................................ XIX
1. MICHELE CAIANIELLO .................................................................................. XIX
2. ED CAPE ....................................................................................................... XIX
3. STEF DE DECKER ........................................................................................ XX
4. ZINOVIA DELIDOU ...................................................................................... XX
5. JAN FERMON .............................................................................................. XX
6. JACQUELINE HODGSON .............................................................................. XX
7. GIULIO ILLUMINATI ..................................................................................... XXI
8. PIOTR KRUSZYŃSKI ................................................................................... XXI
9. CHRISTOS NAINTOS .................................................................................. XXI
10. TIES PRAKKEN ......................................................................................... XXII
11. FRANZ SALDITT ....................................................................................... XXII
12. TARU SPRONKEN .................................................................................... XXII
13. FRANK VERBRUGGEN ............................................................................. XXIII
14. THOMAS WEIGEND ................................................................................ XXIII

PROCEDURAL RIGHTS AT THE INVESTIGATIVE STAGE: TOWARDS A REAL COMMITMENT TO MINIMUM STANDARDS ........................................... 1

1. INTRODUCTION .......................................................................................... 1
2. THE EU AND EUROPEAN CONTEXT .......................................................... 2
3. THREE MAJOR LEGAL TRADITIONS ........................................................... 5
4. THE SIGNIFICANCE OF THE INVESTIGATIVE STAGE ................................. 8
5. THE RESEARCH PROJECT ......................................................................... 11
6. EMERGING THEMES ............................................................................... 13
   6.1. Theory and practice .......................................................................... 13
   6.2. Problems of definition ..................................................................... 15
### The Investigative Stage of the Criminal Process in Belgium

1. **Introduction** ........................................................................................................ 29
2. **Police Powers in the Investigative Stage** ............................................................... 31
   2.1. Relations between police, prosecutor and investigating judge .................... 31
   2.2. Arrest, limitations on and conditions of detention, and bail ......................... 36
   2.3. Interrogations ................................................................................................. 39
   2.4. Coercive methods of investigation ............................................................... 41
   2.5. Secret investigative measures ....................................................................... 42
3. **Rights of the Defendant** ...................................................................................... 43
   3.1. Information about suspects’ rights ................................................................. 43
   3.2. The Right to silence and caution ................................................................. 44
   3.3. The Right to an interpreter ............................................................................ 45
   3.4. The Right to be informed about the charge and existing evidence ............... 45
   3.5. Legal assistance ............................................................................................. 47
   3.6. Legal aid .......................................................................................................... 48
   3.7. The Right to disclosure ................................................................................... 49
   3.8. Juveniles ......................................................................................................... 50
4. **The Impact of the Investigative Stage on the Trial** ............................................. 50
   4.1. The relationship between the investigative stage and the trial phase .......... 50
   4.2. Exclusion of illegally obtained evidence ..................................................... 53
5. **The Role of the Defence Lawyer** ........................................................................ 54
6. **List of Abbreviations** .......................................................................................... 56
7. **Bibliography** ....................................................................................................... 56

### The Investigative Stage of the Criminal Process in England and Wales

1. **Introduction** ........................................................................................................ 59
2. **Police Powers in the Investigative Stage** ............................................................... 60
   2.1. Relations between police, prosecutor and defence ......................................... 60
   2.2. Arrest and detention ........................................................................................ 62
   2.3. Duration and review of detention; bail ....................................................... 64
   2.4. Police interview .............................................................................................. 65
   2.5. Coercive methods of investigation ............................................................... 66
   2.6. Terrorism powers ........................................................................................... 68
3. **Rights of the Defendant** ...................................................................................... 68
   3.1. Information about the suspect’s rights ............................................................ 68
   3.2. Right to silence and the caution .................................................................... 69
   3.3. Right to an interpreter .................................................................................... 70
### Table of Contents

3.4. Right to be informed about the reason for arrest ........................................ 71  
3.5. Legal assistance .......................................................................................... 71  
3.6. Legal Aid .................................................................................................... 72  
3.7. Right to disclosure ...................................................................................... 72  
3.8. Special protection of juveniles and other vulnerable persons .................... 73  
4. IMPACT OF THE INVESTIGATIVE STAGE ON THE TRIAL ......................... 74  
5. THE ROLE OF THE DEFENCE LAWYER ...................................................... 75  
6. BIBLIOGRAPHY ............................................................................................ 77  

#### THE INVESTIGATIVE STAGE OF THE CRIMINAL PROCESS IN GERMANY

1. INTRODUCTION ............................................................................................ 79  
2. POLICE POWERS IN THE INVESTIGATIVE STAGE ........................................ 81  
2.1. Relations between prosecutor, police and defence .................................... 81  
2.2. Arrest and Pre-trial Custody ...................................................................... 82  
2.3. Interrogation ............................................................................................. 83  
2.4. Coercive Methods of Investigation ............................................................ 85  
2.5. Secret Investigative Methods ...................................................................... 86  
2.5.1. Wiretaps ........................................................................................................... 86  
2.5.2. Surveillance of Live Conversations ................................................................ 87  
2.6. Special Powers in Cases of Suspected Terrorism or Organised Crime ...... 88  
3. RIGHTS OF THE DEFENDANT ..................................................................... 88  
3.1. Information about Suspect’s Rights including Right to Silence ............... 88  
3.2. The Right to an Interpreter ........................................................................ 89  
3.3. The Right to Bail ....................................................................................... 89  
3.4. Right to be Informed about the Charge ...................................................... 89  
3.5. Legal Assistance ....................................................................................... 90  
3.6. Compulsory Defence and Legal Aid ........................................................... 92  
3.7. Right to Disclosure .................................................................................... 93  
3.8. Special Rules for Juveniles ........................................................................ 94  
3.9. Special Rules in Terrorism Cases ............................................................... 94  
4. THE IMPACT OF THE INVESTIGATIVE STAGE ON THE TRIAL ................. 95  
4.1. Pre-trial and Trial Stages ........................................................................... 95  
4.2. Exclusion of illegally obtained evidence .................................................... 96  
5. THE ROLE OF THE DEFENCE LAWYER ...................................................... 97  
5.1. Qualification .............................................................................................. 97  
5.2. Role within the Justice System ................................................................... 97  
5.3. Regulations and Limitations ....................................................................... 98  
5.4. Professional Standards and Restrictions ................................................... 98  
6. CONCLUSION .............................................................................................. 99  
7. BIBLIOGRAPHY ............................................................................................ 99  

#### THE INVESTIGATIVE STAGE OF THE CRIMINAL PROCESS IN GREECE

1. INTRODUCTION ............................................................................................ 101  
2. POWERS OF THE INVESTIGATING AUTHORITIES AT THE PRE-TRIAL STAGE ... 103  
2.1. Relations between police, prosecutor and investigating judge ............... 103
# Table of Contents

2.2.  

2.2.  

2.3.  

2.4.  

2.5.  

3.  

3.1.  

3.2.  

3.3.  

3.4.  

3.5.  

3.6.  

3.7.  

3.8.  

3.9.  

4.  

4.1.  

4.2.  

5.  

6.  

7.  

THE INVESTIGATIVE STAGE OF THE CRIMINAL PROCESS IN ITALY

1.  

1.1.  

1.2.  

1.3.  

2.  

2.1.  

2.2.  

2.3.  

2.4.  

2.5.  

2.6.  

3.  

3.1.  

3.2.  

3.3.  

3.4.  

3.5.  

3.6.  

XII
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.7. Disclosure</td>
<td>144</td>
</tr>
<tr>
<td>3.8. Diversion in juvenile cases</td>
<td>144</td>
</tr>
<tr>
<td>3.9. Restrictions on the rights of the defence in cases of terrorism and/or organized crime</td>
<td>145</td>
</tr>
<tr>
<td>4. IMPACT OF THE INVESTIGATIVE STAGE ON THE TRIAL: ACTUAL RELEVANCE OF THE INVESTIGATIVE PHASE IN THE ITALIAN CRIMINAL PROCESS</td>
<td>146</td>
</tr>
<tr>
<td>4.1. The principle of immediacy</td>
<td>146</td>
</tr>
<tr>
<td>4.2. Exclusion of illegally or unfairly obtained evidence</td>
<td>146</td>
</tr>
<tr>
<td>5. THE ROLE OF THE DEFENCE LAWYER</td>
<td>147</td>
</tr>
<tr>
<td>5.1. Self-perception of criminal lawyers</td>
<td>147</td>
</tr>
<tr>
<td>5.2. Statutory regulations and limitations</td>
<td>148</td>
</tr>
<tr>
<td>5.3. Professional standards and restrictions</td>
<td>148</td>
</tr>
<tr>
<td>6. LIST OF ABBREVIATIONS</td>
<td>149</td>
</tr>
<tr>
<td>7. BIBLIOGRAPHY</td>
<td>150</td>
</tr>
</tbody>
</table>

THE INVESTIGATIVE STAGE OF THE CRIMINAL PROCESS IN THE NETHERLANDS................................. 155

1. INTRODUCTION ................................................................................................................. 155
2. POLICE POWERS IN THE INVESTIGATIVE STAGE ................................................................. 156
   2.1. Relations between police, prosecutor, investigating judge and defence... 156
   2.2. Arrest and preliminary detention ........................................................................ 157
       2.2.1. Arrest and first period of questioning .......................................................... 157
       2.2.2. Police custody ................................................................................................ 158
       2.2.3. Detention on remand ...................................................................................... 159
   2.3. Interrogation of the suspect ................................................................................. 160
   2.4. Coercive investigative methods ............................................................................. 161
       2.4.1. Measures against arrested persons ................................................................. 161
       2.4.2. Search and seizure .......................................................................................... 162
       2.4.3. DNA, body-searches and mental examinations .................................................. 163
   2.5. Proactive and secret investigation methods ............................................................ 163
   2.6. Organised crime and terrorism ............................................................................... 165
       2.6.1. Organised crime .............................................................................................. 165
       2.6.2. Terrorism........................................................................................................ 165
   3. RIGHTS OF THE DEFENDANT ......................................................................................... 166
   3.1. Information about suspects’ rights ......................................................................... 166
   3.2. The Right to silence and caution .......................................................................... 166
   3.3. The Right to an interpreter .................................................................................... 166
   3.4. The Right to bail or release under conditions ......................................................... 167
   3.5. The Right to be informed about the charge and existing evidence ......................... 167
   3.6. Legal assistance .................................................................................................... 168
   3.7. Legal aid ................................................................................................................ 169
   3.8. The Right to disclosure .......................................................................................... 170
   3.9. Special protection of juveniles and other vulnerable persons ................................. 171
       3.9.1. Juveniles ......................................................................................................... 171
       3.9.2. Mentally disturbed persons .............................................................................. 171
   3.10. Different rights in the case of suspected organised crime and terrorism .................. 171
       3.10.1. Organised crime ............................................................................................ 171
### Table of Contents

3.10.2. Terrorism................................................................. 171

4. THE IMPACT OF THE INVESTIGATIVE STAGE ON THE TRIAL............. 172

4.1. The use of pre-trial statements of the accused or by witnesses as evidence at trial .................................................. 172

4.2. The exclusion of illegally or unfairly obtained evidence ................. 174

5. THE ROLE OF THE DEFENCE LAWYER................................. 174

5.1. Perception of the role of the defence lawyer ................................... 174

5.2. Statutory regulations and limitations ........................................... 175

5.3. Professional standards and restrictions ........................................ 176

6. CONCLUDING REMARKS ................................................. 177

7. BIBLIOGRAPHY ..................................................................... 178

THE INVESTIGATIVE STAGE OF THE CRIMINAL PROCESS IN POLAND......................................................... 181

1. INTRODUCTION .......................................................................................................................... 181

2. POLICE POWERS IN THE INVESTIGATIVE STAGE ...................................................... 183

2.1. The relations between police, prosecutors and defence ................ 183

2.2. Arrest and detention ........................................................................................................... 183

2.3. ‘Suspected person’ versus ‘suspect’ .............................................................. 184

2.4. Police interview ................................................................................................................ 185

2.5. Preliminary detention; duration and bail ....................................................... 186

2.6. Coercive methods of investigation .............................................................. 187

2.7. Secret methods of investigation .............................................................................. 188

2.8. Terrorism and organized crime ........................................................................ 190

3. THE RIGHTS OF THE DEFENDANT.............................................................................. 192

3.1. Information concerning suspects’ rights ................................................. 192

3.2. Presumption of innocence ........................................................................ 192

3.3. The right to silence and caution .............................................................. 193

3.4. The right to an interpreter ........................................................................ 193

3.5. Legal assistance ............................................................................................. 194

3.6. Legal aid .......................................................................................................... 194

3.7. Legal assistance before and during police interview ......................... 195

3.8. The right to information as to the charge and evidence ..................... 195

3.9. Access to and the content of the case file ................................................... 196

3.10. Special protection of juveniles and other vulnerable persons............. 197

4. THE IMPACT OF THE INVESTIGATIVE STAGE ON THE COURSE OF THE TRIAL ........... 198

4.1. The boundaries of the indictment and the principle of immediacy .... 198

4.2. Exclusion of evidence ...................................................................................... 199

5. THE ROLE OF THE DEFENCE LAWYER.................................................. 199

5.1. Perceptions of the role of a defence lawyer ............................................. 199

5.2. Statutory regulations and restrictions ..................................................... 201

5.3. Professional standards and restrictions ................................................. 202

6. BIBLIOGRAPHY ................................................................................................. 203

CASE STUDY .............................................................................................................. 207

1. INTRODUCTORY INFORMATION ................................................................. 207

2. CASE STUDY ................................................................................................. 208
# Table of Contents

## CASE STUDY: BELGIUM ....................................................................................... 211

1. RIGHTS WHILST DETAINED ............................................................................. 211
   1.1. *The arrest* ............................................................................................... 211
   1.2. *Prisoners’ rights* .................................................................................... 211
2. ACCESS TO AN INTERPRETER .......................................................................... 213
3. ACCESS TO A LAWYER PRIOR TO (POLICE) INTERVIEWS ................................. 213
4. PRESENCE OF A LAWYER DURING INTERVIEWS ............................................... 214
5. SECRET AND NON-CONTRADICTORY CHARACTER OF THE INVESTIGATION .... 214
   5.1. *Access to the case file* ............................................................................ 214
   5.2. *Additional inquiries* ................................................................................ 215
   5.3. *Search warrants* ..................................................................................... 215
6. DOCUMENTATION OF THE INTERVIEW ............................................................ 216
7. ASSESSMENT OF EVIDENCE ............................................................................ 216
8. RELEASE ON BAIL ........................................................................................... 217

## CASE STUDY: ENGLAND AND WALES.............................................................. 219

1. ARREST .......................................................................................................... 219
2. DETENTION – RIGHTS AND PROCEDURE .......................................................... 219
   2.1. *Jean* ....................................................................................................... 221
   2.2. *Sid* ......................................................................................................... 221
3. LEGAL ADVICE ............................................................................................... 222
4. SEARCH OF PREMISES ..................................................................................... 224
5. INTERVIEW ..................................................................................................... 224
   5.1. *Confessions/Silence* ................................................................................ 225
6. BAIL/CONTINUED DETENTION ........................................................................ 226

## CASE STUDY: GERMANY ..................................................................................... 229

1. ARREST AND PRE-TRIAL CUSTODY ................................................................. 229
2. RIGHT TO AN INTERPRETER ............................................................................ 230
3. ACCESS TO A LAWYER .................................................................................... 230
4. ACCESS TO THE PROSECUTION FILE ............................................................. 231
5. SEARCH OF PREMISES ..................................................................................... 231
6. POLICE INTERVIEW ......................................................................................... 232
7. RIGHT TO SILENCE .......................................................................................... 232
8. PRE-TRIAL CUSTODY-BAIL ............................................................................. 233

## CASE STUDY: GREECE.......................................................................................... 235

1. ARREST .......................................................................................................... 235
2. DETENTION AT THE POLICE STATION – RIGHTS AND PROCEDURE ....... 236
3. POLICE INTERVIEWS ....................................................................................... 236
4. ACCESS TO LEGAL ADVICE AT THE POLICE STATION .................................. 238
5. SEARCH OF PREMISES ..................................................................................... 239
6. PROCEDURE BEFORE THE ATTORNEY GENERAL ........................................... 239
7. PROCEDURE BEFORE THE INVESTIGATING JUDGE ........................................ 240
8. PROCEDURE BEFORE THE COURT .................................................................... 240
9. THE USE OF SURVEILLANCE METHODS ......................................................... 241

XV
**10. BAIL/CONTINUED DETENTION** ................................................................. 242

**CASE STUDY: ITALY** .................................................................................. 243

1. **CHARGES** ............................................................................................. 243
2. **THE SEPARATION OF THE CRIMINAL PROCEEDINGS INVOLVING JEAN** ....... 243
4. **VALIDATION OF THE ARREST** ............................................................... 244
   4.1. **The main issues dealt with at the arrest validation hearing** ..................... 244
   4.2. **The role of defence counsel at the arrest validation hearing** ................. 244
5. **THE LIKELY OUTCOME OF THE ARREST VALIDATION HEARING** ............... 245
   5.1. **Arrest validation** .............................................................................. 245
   5.2. **Detention pending the proceeding** .................................................. 246
6. **INDICTMENT AND TRIAL** ................................................................... 246
   6.1. **Sid** ................................................................................................. 246
   6.2. **Jean** ............................................................................................... 247
   6.3. **Georges** .......................................................................................... 247

**CASE STUDY: THE NETHERLANDS** ............................................................. 249

1. **ARREST** .................................................................................................. 249
2. **DETENTION – RIGHTS AND PROCEDURE** ............................................. 251
   2.1. **Police interview** ............................................................................... 251
   2.2. **Caution and evidential value of police records** ................................... 252
   2.3. **Interpreter** ..................................................................................... 253
   2.4. **Police custody and legal advice** ....................................................... 254
   2.5. **Detention on remand** ...................................................................... 254
       2.5.1. **Georges** ..................................................................................... 254
       2.5.2. **Jean** .......................................................................................... 256
       2.5.3. **Sid** ............................................................................................ 257

**CASE STUDY: POLAND** .............................................................................. 259

1. **FIRST STAGE: RIGHTS DURING ARREST AND CUSTODY** ...................... 259
2. **RIGHT TO AN INTERPRETER** ................................................................ 262
3. **RIGHT TO SPEAK TO A LAWYER BEFORE THE FIRST INTERVIEW** ....... 262
4. **PRESENCE LAWYER DURING POLICE INTERVIEW** ............................. 263
5. **ACCESS TO THE FILE** ......................................................................... 263
6. **SEARCH AT GEORGES’ PREMISES** ..................................................... 263
7. **RECORDING OF THE INTERVIEW** ........................................................ 264
8. **USE OF POLICE INTERVIEWS AT TRIAL** ............................................ 264
9. **RELEASE ON BAIL AND COMMENCEMENT OF CRIMINAL PROCEEDINGS** .... 265

**TIMELINE ARREST AND PRE-TRIAL DETENTION BELGIUM** .................... 266

**TIMELINE ARREST AND PRE-TRIAL DETENTION ENGLAND AND WALES** .......... 267

**TIMELINE ARREST AND PRE-TRIAL DETENTION GERMANY** ..................... 270
TIMELINE ARREST AND PRE-TRIAL DETENTION GREECE .....................271
TIMELINE ARREST AND PRE-TRIAL DETENTION ITALY .......................274
TIMELINE ARREST AND PRE-TRIAL DETENTION THE NETHERLANDS .................................................................276
TIMELINE ARREST AND PRE-TRIAL DETENTION POLAND ..............279
COMPARATIVE OVERVIEW TIMELINES .............................................281
BIOGRAPHIES

1. Michele Caianiello

Michele Caianiello is Assistant Professor in Criminal Procedure at the University of Bologna, Faculty of Law. He also lectures in Criminal Evidence at the L.U.I.S.S. ‘Guido Carli’ University of Rome. He graduated in 1994, with a thesis on pre-trial detention. He was awarded his PhD in 2000, with a thesis on International Criminal Tribunals. In 2005, he won a competition as Associate Professor promoted by the University of Lecce. He has studied the decision to charge a suspect with a crime, especially the legally recognised rights of victims and private citizens in this matter. He has also conducted research in the field of evidence law in international criminal justice systems. He is the author of two books (Poteri dei privati nell’esercizio dell’azione penale, Giappichelli, 2003; L’ammissione della prova davanti ai Tribunali penali internazionali per la ex Jugoslavia e il Ruanda e alla Corte penale internazionale, ConquistE, 2004). He practiced as a lawyer in the field of Criminal Law from 1998 until 2006.

2. Ed Cape

Ed Cape is Professor of Criminal Law and Practice at the University of the West of England, Bristol, UK, where he is Director of the Centre for Legal Research. As a former criminal defence lawyer in practice in Bristol, he has a special interest in criminal justice, criminal procedure, police powers, the legal profession, legal aid and access to justice. He is the author of a leading practitioner text, Defending Suspects at Police Stations (5th edition, 2006), and has contributed to and edited a number of books on aspects of criminal justice. He is the author of many articles in academic and professional journals, including the 50th anniversary article on the criminal defence profession in Criminal Law Review (2004). His research includes the contracting of publicly funded criminal defence services, cost drivers in criminal legal aid, victim impact statements, and an evaluation of the pilot Public Defender Service in England and Wales. He has acted as consultant to the Law Society and the Legal Services Commission, and he regularly presents courses on police station practice to the legal profession.
3. **Stef De Decker**

Stef De Decker graduated from the Catholic University of Leuven with a Master of Laws (2004) and a Master in Tax Law (2006), where he has been a junior member of academic staff at the Institute of Criminal Law since 2004. He teaches in the areas of Criminal Law, Criminal Procedure and Corporate Criminal Law. His research interests include white collar crime, the procedural treatment of illegally obtained evidence, special investigation methods, and pre-trial detention.

4. **Zinovia Dellidou**

Zinovia Dellidou completed her undergraduate legal studies at the University of Warwick in England and the University of Lille II in France, and obtained a Master's degree in European Community Law at the College of Europe in Bruges. She has a PhD in Law from Warwick University where she taught on the undergraduate law programme for two years. Her thesis concerned the role of defence counsel and the right to legal aid and assistance in Europe. She has worked in a law practice in Greece and for the Representation of the European Commission in Athens. She was a research assistant at the College of Europe on the consolidation of European Community Law project. Her research interests include European law, social law, human rights, Justice and Home Affairs and comparative criminal justice.

5. **Jan Fermon**

Jan Fermon graduated in law at the Free University of Brussels (VUB) in 1983. He has practiced as a lawyer at the Brussels Bar since 1989 and specialises in international humanitarian law; international, EU and Belgian criminal law; and in immigration law. He is a member of the Progress Lawyers Network – PLN (<www.progresslaw.net>) and is a senior lawyer in their Brussels office. He is also a member of the Bureau of the International Association of Democratic Lawyers (with official consultative status to the United Nations Economic and Social Council ECOSOC). In September 2006 he joined the Faculty of Law of the University of Maastricht and began work on his doctoral thesis on the protection of professional privilege within the EU.

6. **Jacqueline Hodgson**

Jacqueline Hodgson is Professor of Law in the School of Law, University of Warwick, UK, teaching Criminal Law and Criminal Justice and Human Rights in Europe. She graduated with an LLB and PhD from the University of Birmingham. She has conducted a range of empirical research projects in the UK and in France. She is the author of *French Criminal Justice* (2005) and co-author (with Belloni) of *Criminal Injustice* (2000) and (with McConville, Bridges and Pavlovic) of *Standing Accused: The Organisation and Practices of Criminal Defence Lawyers in Britain* (1994).
She has published widely in the area of UK, French and comparative criminal justice, notably on the right to silence, the role of the criminal defence lawyer in Britain and in France, comparative criminal justice and procedural models of justice, the investigation and supervision of crime in France and human rights and criminal justice. She has advised the House of Lords Select Committee on the European Union and taught postgraduate comparative criminal procedure as visiting professor at the University of Bordeaux IV from 2004-2006.

7. Giulio Illuminati

Giulio Illuminati is Professor of Criminal Procedure at the Faculty of Law of the University of Bologna, and Head of the Department of Law. He also lectures in Criminal Procedure at L.U.I.S.S. ‘Guido Carli’ in Rome. He graduated in Law in 1969 at the University of Bologna where, in 1971, he was granted a research fellowship and went on to work there as an assistant from 1974 to 1980. From 1980 to 1989 he was Professor at the University of Camerino, lecturing in Criminal Procedure and General Theory of the Legal Process. Between 1987 and 1989 he was appointed as a member of the Committee for the Reform of the Italian Criminal Process, established by the Minister of Justice, which drew up the current Code of Criminal Procedure. His main research fields have so far concerned the constitutional rights of the accused, the rights of the arrested person, and more recently, human rights in international criminal law. His main publications include La presunzione d’innocenza dell’imputato (1979) and La disciplina processuale delle intercettazioni (1982); he also contributed to the textbooks Casi e questioni di diritto processuale penale (1995), Compendio di procedura penale (3rd edition, 2006), and co-edited the volume Crimini internazionali tra diritto e giustizia (2000). He is a member of the Editorial Board of the review Cassazione penale.

8. Piotr Kruszyński

Piotr Kruszyński, is an Attorney as well as Professor and Director of the Institute of Criminal Law in the Law and Administration Department, Warsaw University. He is the author of approximately sixty publications, including two monographs dedicated to the legal status of the defence lawyer in criminal proceedings and is co-author of an academic student text on the scope of criminal law. He has participated in numerous scientific conferences, either in Poland or abroad (Germany, Austria, France, the Netherlands, Italy and the United Kingdom). He has contributed, as an expert, to the work of several parliamentary committees dealing with substantive criminal law and criminal procedure. As a defence lawyer, he has participated in several famous cases; recently (in 2006) he has defended Poland’s present Deputy Prime Minister, Prof. Zyta Gilowska, in her vetting trial before the Court of Appeal in Warsaw.
9. **Christos Naintos**

Christos Naintos studied law and political science at the Aristotle’s University of Thessaloniki between 1997-2001 and 2002-2004, and was awarded scholarships during this time. Between 2002 and 2004 he studied a Masters degree in Penal Law and Criminal Procedure at the University of Thrace, in Komotini, where he has studied as a PhD student in Penal Procedure since 2004. He has taught Criminal Procedure at the Komotini Police College, as well as teaching at the university of Thrace. He has published two articles in student magazines concerning the use of weapons by the police and the use of community service as a criminal penalty. He has been working as a lawyer in Thessaloniki since 2003.

10. **Ties Prakken**

Ties Prakken graduated in law at Amsterdam University. She started her career as a practising lawyer in Amsterdam, before going on to teach criminal law at Utrecht University (1971-1985) and completing her PhD there in 1985 on the subject of legal aid and legal activism. From 1985 to 1998 she left academia in order to return to practice as defence counsel, working on many politically important and controversial cases. In 1998 she became a professor in criminal law at Maastricht University, from where she retired in 2004. Throughout her career she has published across a range of areas in criminal law, in particular the law of criminal procedure. Most recently, she has co-authored (with Taru Spronken) a Manual for Criminal Defence Lawyers (2003) and she continues to research and practice in the area of criminal law.

11. **Franz Salditt**

Franz Salditt has been a defence lawyer in private practice since 1971, specialising in the defense of tax and other white-collar cases. He was a member of the criminal law committee of the German Lawyers’ Association (Deutscher Anwaltverein) from 1991 to 2002 and co-founded the European Criminal Bar Association (ECBA) in 1997, serving as its vice chairman from 1997 to 2002. He has published extensively on issues of criminal law and criminal procedure. He holds an honorary professorship at the FernUniversität (University for Distant Learning) at Hagen, Germany.

12. **Taru Spronken**

Taru Spronken is Professor of Criminal Law and Criminal Procedure at the University of Maastricht and defence lawyer at the Advocatenpraktijk, Universiteit Maastricht. She is Chair of the Legal Development Committee of the European Criminal Bar Association, Chair of the Advisory Committee on Criminal Law of the Dutch Bar Association and an honorary judge in the Court of Appeal of Arnhem. As both an academic and a practitioner she specialises in proceedings before the
European Court of Human Rights in Strasbourg. She has written a thesis on the role and professional responsibility of the defence counsel in the Netherlands and has published extensively on the position of the defence in criminal proceedings.

13. Frank Verbruggen

Frank Verbruggen is professor at the Institute of Criminal Law of the Catholic University of Leuven, Belgium. He teaches Criminal Law, the Law of Criminal Sanctions, European Criminal Law and International Criminal Law. He has studied the impact of the fight against organized crime and terrorism on criminal law and procedure. His current research focuses on pan-European principles legitimizing and limiting mutual recognition in criminal matters and on the reform of Belgian sentencing and penitentiary law within a European context. He served as an expert to the Belgian parliament in the debate on the Bill for a new Belgian Code of Criminal Procedure (2006). He also is a lawyer at the Brussels Bar, as of counsel with Liedekerke-Wolters-Waelbroeck-Kirkpatrick.

14. Thomas Weigend

Thomas Weigend is professor of criminal law and criminal procedure at the University of Cologne, Germany. He has studied law at the Universities of Hamburg, Freiburg and Chicago and received the degree of Dr. jur. from the University of Freiburg in 1977. In 1985, he obtained the Habilitation (license to teach law) from the University of Freiburg. Since 1986, he has been a member of the law faculty of the University of Cologne. He has published several books and more than one hundred articles in German and foreign law reviews, mostly on problems of (comparative) criminal procedure and recently on international criminal law. He has been co-editor of Zeitschrift für die gesamte Strafrechtswissenschaft since 1988 and managing editor of that journal from 1982 to 2004. He taught as a visiting professor at the University of Chicago (1976/77), the University of Tokyo (1991 and 1996) and New York University (2001).