Suspects in Europe

Procedural Rights at the Investigative Stage of the Criminal Process in the European Union
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PREFACE

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
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