INTERROGATING YOUNG SUSPECTS

Procedural Safeguards from an Empirical Perspective

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(eds.)
PREFACE AND ACKNOWLEDGEMENTS

This book is the result of the second 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, an empirical study and a merging of 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 volume I consisted of a comparative research into existing procedural safeguards for juvenile suspects during interrogation in the legal frameworks of five selected Member States: 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 are described in this second volume.

The successful completion of this project has been a joint effort of a group composed of many people. First, 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 Stanio-Kawecka. Empirical legal research is often extremely challenging because it is not easy to succeed in gathering necessary permissions and collecting relevant data. It was thanks to the knowledge, flexibility, open-mindedness, patience and tenacity of our partners that we only experienced the positive sides of empirical legal research. Working with them has been an incredible opportunity of enrichment not only in legal matters.

The research and project have also benefited enormously from the advice and assistance offered by our supporting partners: we thank PLOT Limburg and Defence for Children for their support in organising project events, employing social media and disseminating research findings.

The project has benefited from the supervision of a Steering Committee, an advisory board of experts composed of leading scholars in the field of juvenile

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No empirical research succeeds without the indispensable effort from policy makers and respondents. We are grateful for the opportunity to conduct this research due to the permissions of the responsible institutions in the five countries who enabled us to organise focus group interviews with professionals and juveniles as well as analyse recorded interrogations and/or written records of interrogations of juvenile suspects. We would like to express our sincere gratitude towards all persons involved in the focus groups and analysis of interrogations.

With regard to the empirical study in Belgium, we first would like to thank all respondents of the focus group interviews (police and lawyers) for their participation and contribution without which we would not have had this rich set of data. Special thanks to the head of the Flemish Juvenile Lawyers Bar Association, mr. van de Mussele, for assisting us in the organisation of the focus group with lawyers. In light of the observations of interrogations, we owe our gratitude to the head of the Prosecutions Department of Antwerp, mr. Yves Liégeois, for the required permissions to gain access to the interrogations of young suspects. We would also like to thank the police chiefs of the local police departments to give their permission as well as the chiefs of the responsible departments for their assistance and support during the observations. Grateful thanks are also due to the police who were always willing to assist us in any way during the observations who took place at their police station. Furthermore we owe our gratitude to the Behavioural Science Unit of the Belgian federal police for their kind invitation to share information and discuss our research.

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Miet Vanderhallen
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<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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<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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<tr>
<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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<tr>
<td>EAW</td>
<td>European Arrest Warrant</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>FME</td>
<td>forensic medical examiner</td>
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<tr>
<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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<tr>
<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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<tr>
<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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<tr>
<td>YPA</td>
<td>Youth Protection Act</td>
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BIOGRAPHIES

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 is both editor and author in the recent publications of the Centre for Studies and Research into Juvenile Justice.

Deborah De Felice
Deborah De Felice is Assistant Professor in Sociology of Law, deviance and social change at the University of Catania (Italy). She teaches at the Department of Political and Social Sciences in an Administrative Studies course at the same institution.


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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, 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. The 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, which was 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, a study of youth courts, evaluating new innovative arrangements involving duty solicitors based in police stations, as well as being 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), ‘No time for a solicitor: implications for delays on the take-up of legal advice (2013)
and ‘PACE, performance targets and legal protections’ (2014) published in the *Criminal Law Review*. She is a member of the International Legal Aid Group, the European Society of Criminology 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 doctor’s dissertation approached a comparative study of social rehabilitation systems of juvenile delinquents in Poland and in Germany. She worked in various types of research teams and she is the author of approximately 40 article in the area of social prevention and rehabilitation and problems of juvenile delinquency from a Polish and international perspective. Her interests are focused on European trends in social prevention of juvenile delinquency and criminal policy in this area.

**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 the research project *Protecting Young Suspects in Interrogations* 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. He was prior 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. The social media environment (project website, LinkedIn and Twitter account) has also been managed by him throughout the project. At present, Marc van Oosterhout is working at the Department of urban planning at Roermond municipality.

**Michele Panzavolta**
Michele Panzavolta is Associate professor of criminal law at the University of Leuven and part-time assistant professor at the University of Maastricht, where he has been 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 postdoctoral fellow at the University of Bologna and Visiting scholar at the University of Cambridge. He is a qualified...
attorney at the bar of Bologna (Italy) and has experience as a practicing criminal lawyer in Italy. He is specialized 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 crimes and asset recovery and, more in general, the protection of individual rights in criminal matters.

Vania Patanè

Vania Patanè is professor of criminal procedure and comparative criminal procedure at the Law Department of the University of Catania. She graduated in Law at the University of Catania in 1987 and obtained her PhD in criminal science at the same institution in 1993. She has been visiting scholar at the London School of Economics and Political Science, at the Institute of Advanced Legal Studies, at King’s College (London) (1991, 1992, 1994, 1997, 2010) and at University of Edinburgh – Law School (1996). Her main research fields are the right to silence and privilege against self-incrimination, juvenile justice, mediation and restorative justice. She is currently the director of the Research Centre on juvenile justice and family law (University of Catania) and coordinator of the post-graduate course on juvenile justice and family law. She has been member, as an Italian representative, of the Committee of experts at the Council of Europe for the drafting of Rec. N R (99) 19 on “Mediation in penal matters”; of the Management Committee of COST Action A 21 on “Restorative justice developments in Europe” and coordinator of the Working Group on “Policy Oriented research”. She has been Scientific referent, for the Higher School of the Judiciary (Scuola Superiore della Magistratura), in the project “Judicial response to crime committed by EU unaccompanied juvenile offenders”. Key publications include:

*Recent Italian Efforts to Respond to Terrorism at the Legislative Level*, in *Journal of International Criminal Justice*, 2006, n. 4.
Miet Vanderhallen
Miet Vanderhallen is an assistant professor criminology at Maastricht University (the Netherlands) and an associate professor psychology and law at Antwerp University (Belgium). She holds a degree and PhD in criminology (Catholic University of Leuven, Belgium). She conducted extensive empirical studies on investigative interviewing regarding various aspects such as rapport building, suspect interviewing, legal advice, training and supervision. Miet Vanderhallen published many (inter)national articles and book chapters on investigative interviewing. Recently, she participated in several EU studies on interviewing suspects among which 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 with the department of criminal law and criminology of Maastricht University (the Netherlands). She holds a degree in law (with honors) and a PhD at the same institution. In 2009 she successfully defended her doctorate 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 bachelor- and master courses in the field of criminal (procedural) law and is a regular author of different Dutch journals and commentaries such as Tekst and Commentaar Strafvordering (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 in 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 focus 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 in Global Perspective, 2015) and long-term prisoners in Poland (in Long-Term Imprisonment and Human Rights, 2014).