

Contents

Part I Rights and Guarantees of Suspects and Defendants in Criminal Proceedings: The EU Directives and Their Impact on National Laws

Fair Trial Rights in the European Union: Reconciling Accused and Victims' Rights	3
André Klip	
1 Introduction	3
2 Harmonisation of Criminal Procedure in the European Union	4
3 Defence Rights in the European Union	6
4 Victim's Rights in the Context of Rights of the Accused	21
References	25
The Implementation of the Directive on Linguistic Assistance in Italy, Between Changes to the Code of Criminal Procedure and Case-Law Resistance	27
Mitja Gialuz	
1 Analysing the 2010/64/EU Directive	27
2 Transposing the Directive Into the Italian Legal Order with Legislative Decree No. 32/2014	32
3 Case-Law Resistance	36
References	39
Awareness of One's Own Rights and Knowledge of the Accusation: The Implementation of the Directive on the Right to Information in Italy	43
Daniele Negri	
1 The Essential Aims of the EU Directive on the Right to Information	44
2 Implementation of the Directive in the Italian Legal System: Banning Old Practices About the Right of the Accused to Be Informed of His Rights	47

3	The Informational Rights of Persons Under Arrest	48
4	In Particular: The Right to Be Informed of the Charge	51
5	Continued: The Right of Access to the Materials of the Case	53
	References	55
The Right of Access to a Lawyer in the European Union: Directive 2013/48/EU and Its Implementation in Spain		57
Mar Jimeno-Bulnes		
1	Introduction: In Defence of the Rights of the Accused	58
2	General Aspects: The Lack of Regulation of the Right to Legal Aid . . .	59
3	Scope of Application from a Triple Perspective	61
4	Content: Rights Recognised in the Directive and Others Missing	63
5	Spanish Perspective: Legal Regulation and Forensic Practice	67
6	Final Remarks: The Impact of Directive 2013/48/EU	69
	References	70
“Minimum” Procedural Rights in Judicial Cooperation Procedures		71
Cristina Mauro		
1	Foreword	72
2	One Step Behind	73
3	A Glimpse Ahead	78
4	Conclusive Remarks	79
	References	81
 Part II Transnational Criminal Investigations and Proceedings: Instruments of Judicial Cooperation in Criminal Matters		
The European Investigation Order for Evidence Gathering Abroad		85
Fabrizio Siracusano		
1	Introduction	86
2	A Slow Progression Towards a Minimal “Harmonisation”	87
3	The European Investigation Order (EIO): The Most Advanced Discipline Regarding the Transnational Evidence Gathering and Information Exchange in Europe	89
4	An Effective Simplification of Procedures?	90
5	A “Hybrid” Model of Research and Evidence Gathering	91
6	Between Mutual Legal Assistance and Mutual Recognition	93
7	‘European Models’ of Investigation for a ‘Reinforced’ Protection of the Fundamental Rights of the Person	95
8	A Double Check of Proportionality	96
9	Omissions and Aporias of the EIO’s Discipline	97
10	Final Considerations	98
	References	99

Freezing Evidence and Property: Already in Force Mutual Recognition Among EU Member States	103
Gabriella Di Paolo	
1 Premise	103
2 Reference Legal Sources: General Panorama	104
3 Framework Decision 2003/577/JHA on the Execution of Orders Freezing Property or Evidence and Framework Decision 2008/978/JHA on the European Evidence Warrant	105
4 Implementation in the Domestic Legal Order: Legislative Decree No. 35/2016	108
5 Conclusions	113
References	113
Conflicts of Jurisdiction in Criminal Proceedings in Europe: Between <i>Bis In Idem</i> and <i>Lis Pendens</i>	115
Lucia Parlato	
1 Conflicts of Jurisdiction and Reasons of Their Increase	116
2 The Cornerstone: The <i>Ne Bis In Idem</i> Principle and Its Complex Normative Basis	118
3 Between <i>Bis In Idem</i> and <i>Lis Pendens</i> : Initiatives, Normative Sources and Possible Solutions	126
References	128
Joint Investigation Teams in the Italian Legislation Implementing Framework Decision 2002/465/JHA	131
Rosanna Belfiore	
1 Preliminary Remarks	131
2 The Implementation of Joint Investigation Teams in Italy: Scope of Application	132
3 Some Final Considerations	141
References	141
Judicial Cooperation System in the Fight Against Transnational Organised Crime	143
Francesco Testa	
1 United Nations and the Fight Against Organised Crime. Origin and Main Contents of the Palermo Convention and of “Additional” Protocols . . .	144
2 Relevance of UNTOC for the Italian System. Ratification Law No. 146/2006	146
3 Other Issues Under Discussion at the United Nations. The Role of the European Union Inside UN Commissions	152
4 Reviewing Mechanism (Art. 32 Para. 3, d) of the Convention Compared to UNCAC Reviewing Mechanism. State-of-the-Art of Negotiations for the Adoption of a Reviewing Mechanism of the Convention and of Protocols. Italian Standpoint	153

Part III The Establishment of the European Public Prosecutor's Office: Steps Forward *Versus* National Resistances

Brief Notes on the European Public Prosecutor's Office: Ideas, Project and Fulfilment	157
Tommaso Rafaraci	
1 Approval of the EPPO Regulation	157
2 Shared Competence	158
3 Modifications to EPPO's Structure and National Link	158
4 Judicial Controls	160
5 Decisions on Prosecution	161
6 Procedural Guarantees	162
7 Conclusions	163
The European Public Prosecutor: Controversy Expressed in Structural Form	165
Marianne L. Wade	
1 Introduction	166
2 Providing for Protection of the EU's Financial Interests	168
3 The EPPO Structure: Controversy Expressed in Structure	174
4 The EPPO and the Future	176
5 The Key Opportunity Missed	178
References	180
Eurojust and the European Public Prosecutor's Office. Introduction to a Historic Reform	181
Francesca Ruggieri	
1 Introduction	181
2 Eurojust	183
3 The European Public Prosecutor's Office (EPPO)	185
4 Eurojust and the EPPO	187
5 Some Considerations of the European Parliament, Followed in the Regulation on the EPPO	188
6 Annotated Bibliography	189
Judicial Control of the European Public Prosecutor's Office	191
Martin Böse	
1 Introduction	192
2 Function and Scope of Judicial Control	192
3 The Commission's Proposal and the Negotiations in the Council	194
4 The Treaty Framework of Judicial Review in the Union	197
5 The EPPO and Its Relationship to National Courts (Art. 86 TFEU)	199
6 Conclusion	201
References	202

Defence Areas and Limits in the Investigations of the European Public Prosecutor	205
Ezechia Paolo Reale	
1 Introduction	205
2 Guarantees of National Systems	207
3 Minimum Standards in the European Directives	208
4 Fundamental Rights	211
5 Conclusions	212