

18

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Handbook of European Criminal Procedure, Roberto E. Kostoris (ed.) (Springer International Publishing AG, 2018)

A short presentation of the book

In the post-Lisbon era, criminal justice has been recognized a new central role in the European Union within the Area of Freedom, Security and Justice. In this context, the influence of the Council of Europe and of the European Union institutions and courts on national criminal justice systems is undeniable. The long and tormented relation between supranational sources and internal rules has determined an intricate system of legal sources, where national legislation has been reshaped by the case law of the European Court of Human Rights and European Union law. The European Convention on Human Rights and the Charter of Fundamental Rights of the European Union represent quasi-constitutional sources and the decisions of the two European Supreme Courts constitute a relevant part of the national constitutional legal framework.

In such context, the study of criminal procedure increasingly requires a comprehensive approach, capable of keeping together supranational rules, common general principles and fundamental freedoms, and to pay increasing attention to the case law of role of the European Courts, in a way previously unknown to most European civil-law systems.

Against this background, the importance of this “Handbook of European Criminal Procedure”[1], edited by Professor Roberto E. Kostoris, that concentrates in an agile and updated tool all relevant legal sources with a thematic perspective, cannot be emphasized enough. This volume represents the English version of a well-known handbook published in Italy, where it has reached its third edition and is considered a point of reference in this field. The book, whose translation in English makes it available to a wider readership, represents the first attempt in Europe to dedicate a handbook exclusively to European criminal procedural matters and creates a new conceptual methodology to approach the rules of criminal procedure adopting a systemic and comparative approach.

Several distinguished legal scholars led by Roberto E. Kostoris examine the current legal architecture of European criminal justice analyzing in details the different components of the justice machinery (R.E. Kostoris, A. Balsamo, A. Weyembergh, G. De Amicis, J.R. Spencer, M. Bargis, M. Daniele, E. Calvanese and P. P. Paulesu).

An introductory Chapter by the Editor, Professor Kostoris, which traces the development of European criminal procedural law and describes the several actors active in criminal matters within the EU and the Council of Europe’s legal frameworks, as well as the network dimension of their actions, together with Parts II to IV of the book provide a comprehensive but detailed overview on the main aspects that a jurist should be aware of for the study and application of European criminal procedure.

A central part of the work (Chapters 2 and 3) is dedicated to the protection of fundamental rights applicable in criminal proceedings, as they stand in the Charter of Fundamental Rights of the EU (CFREU), bearing in mind the equivalence clause that links the latter to the European Convention on Human Rights (ECHR).

In this perspective, the authors address the level of harmonization reached in the EU, describing the impact and the content of the six directives approved between 2010 and 2016. The analysis of the defendant's rights is then completed by a recollection of the supranational sources protecting other fundamental safeguards not (yet?) directly addressed by specific EU instruments, such as the prohibition of torture and inhuman or degrading treatment, or privacy in the interception of communications.

A specific section of the book is then dedicated to the legal sources in force protecting victims of crime, illustrating the progressive strengthening of their position pursued at the EU level, and culminated in the adoption of the European Protection Order (Directive 2011/99/EU) and of Directive 2012/29/EU, as well as other pieces of secondary legislation with sectorial application.

All these sources are analysed in the handbook with an educational, whilst at the same time critical perspective, putting in relation these fundamental procedural safeguards with the case law of the European Court on Human Rights, helping the reader to understand the potential differences in the level of protection afforded by the EU Court and legislator, and the Strasbourg Court.

Part III of the handbook is then devoted to the description of the different models of cooperation (vertical and horizontal) currently used in the EU, and of their historical pivotal role in the development of European criminal law and procedure. To this end, both police (Europol) and judicial (Eurojust) cooperation networks are dealt with, as well as the peculiar role of the European Antifraud Office (OLAF). Finally, it is also analyzed the new regulation on the European Public Prosecutor's Office (EPPO).

In Part IV, Chapters 7 to 9 analyse in detail the impact of the principle of mutual recognition in the area of Freedom, Security and Justice, with a special focus on its application towards persons (within the European Arrest Warrant legal framework), and evidence (with regard to the European Investigation Order). Under this last profile, the contributors especially concentrate their analysis on very sensitive issues, including the regime applicable to DNA and digital evidence, taking into account the different supranational sources enforced on the matter (such as the Prüm and the Budapest Conventions).

Lastly, the role of the *ne bis in idem* principle is also explored in the handbook (Chapter 10), in light of the persistent lack of a clear regulation concerning the allocation of jurisdiction. Other Chapters complete the reconstruction of the European criminal procedure framework examining the enforcement of judicial decisions (Chapter 11) and of confiscation orders (Chapter 12).

Besides for its completeness, one of the strengths of this handbook is the way the contributors present and explain the themes at stake: adopting a procedural perspective, rarely found in comparable works on the matter, they cover all relevant critical issues that may arise during criminal proceedings, with a special focus on the position of the defendant, and on the protection of his or her rights.

In doing so, the authors are able to provide readers that firstly approach European Criminal Procedure with a comprehensive, detailed, and at the same time easily accessible overview of principles, legal sources, and jurisprudence in this field, putting together all different sources currently in force, also when belonging to different legal orders.

Although the analysis focuses mostly on European law and jurisprudence, references to national implementation are however included where relevant.

At the end of each Chapter, a valuable section providing further literature has been added, to facilitate readers which desire to deepen their understanding on the subjects dealt with, making this handbook a valuable tool both for students who first approach the matter, and for practitioners that wish to find quick and precise references to face the daily influence of European sources in shaping the content of national criminal procedure and fundamental rights.

[1] Reviewed by: Silvia Allegrezza, Associate Professor of Criminal Law, Faculté de Droit, d'Economie et de Finance, Université du Luxembourg, and Giulia Lasagni, Post-doc Researcher, Université du Luxembourg/Adjunct Professor of European Criminal Procedure, University of Bologna.