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The European Criminal Law Academic Network (ECLAN)
aims to facilitate and strengthen academic research and education in the field of EU Criminal Law

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Proposal for a Directive of the European Parliament and the Council on combating terrorism and replacing Council Framework Decision 2002/457/JHA on combating terrorism

In its European agenda on security released on 28 April 2015, the Commission considered that updating the EU framework to address terrorism was a priority. In the Commission work programme 2016, a revision of the Framework Decision on combatting terrorism was announced. Such a legislative proposal came on 2 December 2015 (COM(2015) 625 final).

This proposal intended to implement relevant international standards and obligations to address the evolving terrorist threat. As a matter of fact, recently, the phenomenon of "foreign terrorist fighters" has been addressed at the international level. The UN Security Council Resolution 2178 (2014), specifically in its operative paragraph 6, requires the Member States to ensure that their domestic laws and regulations establish serious criminal offences sufficient to prosecute and to penalize in a manner duly reflecting the seriousness of the offence: a) travel or attempt to travel to a third country with the purpose of contributing to the commission of terrorist acts or to the providing or receiving of training; b) the funding of such travel and c) the organization or facilitation of such travel. This resolution also emphasized the obligation for all States to comply with international human rights law when fighting terrorism, and the necessity for States to engage relevant local communities and non-governmental actors in developing strategies to counter the violent extremist narrative than can incite terrorist acts and to address the conditions conducive to the spread of violent extremism. Similarly, an Additional Protocol to the Council of Europe Convention on the prevention of terrorism was adopted in May 2015. It implements the above mentioned UN Security Council Resolution, and requires the criminalization of participation in an association or group for the purpose of terrorism (Art. 2), receiving training for terrorism (Art. 3), travelling or attempting to travel for terrorist purposes (Art. 4), providing or collecting funds for such travels (Art. 5) and organizing and facilitating such travels (Art. 6). The EU signed the Additional Protocol as well as the Convention on 22 October 2015. Moreover, the Financial Action Task Force revised the Interpretive Note to Recommendation 5 on the criminal offence of terrorist financing. States are now requested to criminalise financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning or preparation of,

or participation in, terrorist acts or the providing of receiving of terrorist training.

The current legal framework, namely Framework Decision 2002/475/JHA, does not explicitly require the criminalisation of travel to third countries with terrorist intentions, nor does it explicitly require the criminalization of being trained for terrorist purposes. Concerning the financing of terrorism, this instrument only requires its criminalization when this funding is provided to a terrorist group. It does not criminalize the funding of activities such as recruitment, training or travelling abroad for terrorism.

On 15 February 2016, the House of Representatives of the Republic of Cyprus issued an opinion on the application of the principles of subsidiarity and proportionality expressing doubts whether the proposed Directive in its current form constitutes the best possible option to address the threat of terrorism.

On 11 March 2016, the Council reached a general approach on the proposed Directive on the basis of the text resulting from the discussions in the Working Party on Substantive Criminal Law.

A joint submission by Amnesty International, the International Commission of Jurists, the Open Society Justice Initiative and the Open Society European Policy Institute on February 2016 strongly criticized this proposal. A draft report has been submitted to the LIBE Committee on 9 March 2016 (Rapporteur: Monika Hohlmeier) and still has to be adopted.

Processing of data

Proposal for a Directive of the European Parliament and of the Council amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA

On 19 January 2016, the Commission tabled a proposal for a Directive amending the existing legal framework on the European Criminal Records Information System (ECRIS), in order to extend the exchange of information regarding criminal records in the ECRIS to third-country nationals. This proposal was accompanied by an impact assessment. The ECRIS, was established in 2012 and is based on Council Framework Decision 2009/315/JHA and Council Decision 2009/316/JHA. It enables national judicial authorities to receive information on previous criminal convictions in other Member States either for criminal proceedings or other purposes like administrative ones. In application of that procedure, the Member States of nationality must store exhaustive information on the criminal records of their nationals and provide this information upon request, regardless of where in the EU the convictions were handed down.

In the current situation, it is possible to exchange information about third country nationals and stateless persons (TCN) through ECRIS. However, there is no

procedure to do so efficiently. The information about the criminal records history of a particular individual are stored by the convicting Member State, and the requesting Member State cannot know in which Member State a particular TCN has been convicted. Consequently, requesting Member States have to send "blanket requests" to all Member States, which creates a heavy administrative burden in all Member States. To avoid sending these "blanket requests", Member States often rely exclusively on their own national criminal record registers, meaning that they do not access to complete information.

On 13 April 2016, the European Data Protection Supervisor issued its opinion 3/2016 on this proposal, containing several recommendations.

Amendments are currently under discussion both within the Council and the LIBE Committee (Rapporteur: Timothy Kirkhope) at the European Parliament.

On 22 April 2016 the UK notified its wish to opt-in to the adoption of this Directive

So far, the reference to anonymization was replaced by a reference to pseudonymisation. The main points that are discussed are related to the extent of the obligation to store fingerprints and the regime applicable to EU nationals who are also citizens of a third country.

Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) No 767/2008 and Regulation (EU) No 1077/2011

On 6 April 2016, the Commission tabled a revised proposal for Regulation on the establishment of an EU Entry/Exit System (EES). The Commission revised its first proposal on the establishment of an EES presented in February 2013, to take into account relevant developments which took place since the submission of the original Smart Borders proposals. The EES will register border crossings (entry and exit) for all third-country nationals visiting the Schengen area for a short stay (maximum 90 days period in any period of 180 days), both visa-required and visa-exempt travellers, or eventually, on the basis of a touring visa (up to one year). In addition to Article 77(2)(b) and (d) TFEU, the new proposal is also based on Article 87(2)(a) and Article 88(2)(a), since the new proposal also lays down the conditions under which Member States' designated law enforcement authorities and Europol may obtain access for consultation of the EES for the purposes of the prevention, detection and investigation of terrorist offences or of other serious criminal offences.

This revised proposal should be seen in the context of the ongoing discussions at EU level on the law enforcement access to the border management (and migration control) information systems. In this

respect, the Commission also expressed its will to examine if there is a need to reconsider the legal framework for law enforcement access to the Visa Information System (VIS) and Eurodac. With respect to the latter, some amendments to the current legal framework have been proposed by the Commission on 4 May 2016 and relate to, *inter alia*, provisions on access for law enforcement authorities and Europol to Eurodac.

ON-GOING NEGOTIATIONS

Approximation of procedural criminal law

Proposal for a Directive of the European Parliament and of the Council on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings

On 27 November 2013, the European Commission tabled a proposal for a Directive on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant (EAW) proceedings (COM(2013) 824 final). The proposal is closely linked to Directive 2013/48/EU on the right of access to a lawyer and it aims to contributing to rendering effective the right on access to a lawyer provided for in that Directive at the early stages of the proceedings for suspects or accused persons in criminal proceedings who are deprived of liberty and for requested persons who are subject to EAW proceedings. The proposal however reflects the limited ambition of the Commission. The criteria of access to legal aid (means and merits tests), key elements of its effectiveness, as well as provisions on the effectiveness and quality of legal aid, are set in a separate instrument, the recommendation on the right to legal aid for suspects or accused persons in criminal proceedings. In its opinion, the European Economic and Social Committee highlighted that the rights covered need to be defined and framed more precisely.

During the JHA meeting of 12-13 March 2015 the Council reached a general approach on the proposal. The text adopted by the Council contains certain modifications to the proposal submitted by the Commission, notably in order to define more narrowly the scope of application of the Directive.

In turn, the LIBE Committee of the European Parliament adopted its draft report on the proposal on 26 November 2014 and its orientation vote on 6 May 2015 (Rapporteur: Dennis de Jong). The Committee report was tabled for plenary 1st reading/single reading on 18 May 2015. The Committee introduced some important amendments. It notably extended the subject-matter of the proposal to the right to ordinary legal aid for suspects or accused persons in criminal proceedings. In addition, it includes provisions enumerating criteria to determine if suspects or accused persons and requested persons should obtain legal aid ('means-test' and 'merits test', on the effectiveness

and quality of legal aid and on the right to an effective remedy.

Three trilogues took place during the Luxembourg Presidency (the first one was held on 14 July 2015) and several trilogues were held so far during the Netherlands Presidency (13 January, 18 February, 3 March and 3 May 2016). The negotiations are on-going under the Netherlands Presidency.

EU agencies and bodies

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) no. 883/2013 as regards the establishment of a Controller of procedural guarantees

On 11 June 2014, the European Commission submitted a proposal for a Regulation amending Regulation (EU, Euratom) as regards the establishment of a Controller of procedural guarantees (COM(2014) 340 final). This proposal aims at further strengthening the procedural guarantees in place for all persons under investigation by the European Anti-Fraud Office and at taking into account the special way in which members of EU institutions are elected or appointed as well as their special responsibilities. For this purpose, the Regulation 883/2013 on investigations by OLAF will be amended. In this respect, a Controller of procedural guarantees is proposed to: first, review complaints lodged by persons under investigation concerning violation of procedural guarantees; second, authorise OLAF to conduct certain investigative measures with respect to members of EU institutions.

The Court of Auditors issued its opinion on 21st November 2014. No activity in the Council has been reported, and the proposal is awaiting a decision by the LIBE Committee.

Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office

The proposal (COM(2013) 534 final) made on 17 July 2013 sought to establish the European Public Prosecutor's Office (EPPO). Using the Early Warning System as provided for in Art. 7 of Protocol n°2, fourteen chambers of national Parliaments sent reasoned opinions to the Commission, thus triggering the yellow card procedure, thereby obliging the Commission to reassess the proposal. Nevertheless, considering that its proposal complied with the principle of subsidiarity and that a withdrawal or an amendment of the proposal was not necessary, the Commission decided to maintain it. Debates within the Council have regularly taken place since October 2013 at the expert group level (COPEN), within CATS and in the JHA Councils following an article by article approach.

The proposal was developed substantially under the Lithuanian and the Hellenic Presidencies, and on that basis the Hellenic Presidency started to revise the Commission proposal, focusing on 19 Articles concerning mainly the structure and the competence of the EPPO. Some other key features of the proposal (in particular investigations measures, admissibility of evidence, procedural safeguards and judicial review) were the

focus of the Italian Presidency. The Latvian Presidency of the Council continued the work of the Italian Presidency with a view to finalising the first three chapters of the Regulation and reached an agreement in principle on these Chapters by June 2015.

Following a first report of the Committee on Civil Liberties, Justice and Home Affairs (Rapporteur : Salvatore Iacolino) and the opinions of the Committee on Budgetary Control, the Committee on Budgets and the Committee on Legal Affairs (Rapporteur : Ingeborg Gräßle), the European Parliament adopted on 12 March 2014 a resolution on the proposal containing number of suggestions for improvements. After a new report of the Committee on Civil Liberties, Justice and Home Affairs (Rapporteur : Monica Macovei) and the opinion of the Committee on Legal Affairs, the Plenary of the European Parliament adopted a resolution the 24th April 2015 reiterating the contents of its March resolution and supplementing it in view of the latest developments in the Council. In the report, the European Parliament stated the underlying principles and conditions under which it might consent to the EPPO Regulation as required by the Lisbon Treaty.

At the end of the Latvian Presidency, a compromise on the first sixteen articles was submitted to the JHA Council and received large support from the Member States. It was therefore the duty of the Luxembourg Presidency to discuss Articles 17 to 37. It focused first on certain specific issues such as cross-border investigations, enforcement of the ordered measures and admissibility of evidence (Art. 25, 26, 27, 31). A JHA Council meeting took place on 8-9 October 2015. The Presidency received a large support from the Member States on a consolidated version for Articles 24, 25, 26, 26a, 27, 28, 29, 30, 31, 32, 33 and 35. These articles established rules covering in particular the conduct of investigations and criminal prosecutions in national courts, the sensitive rules on admissibility of evidence and included the procedural rights of suspects and accused persons.

During the JHA Council in December 2015, the Luxembourg Presidency aimed to reach a partial general approach on a package of articles dealing with the material competence of EPPO and the exercise thereof (Art. 17 and 20), the reporting, registration and verification of information (Art. 19), the right of evocation of cases (Art. 22a) and certain aspects of referrals and transfers of proceedings to the national authorities.

On 22 December 2015, the Luxembourg Presidency issued a document summing up the state of the play. According to this document, the ministers expressed at the Council of 3 December 2015 a very large support of articles 17-23 as well as to certain aspects of Article 28a that had been left out of the political discussions at the October Council.

The main elements of this new draft was in chapter III on the competences and the exercise of the competences of the EPPO, and the first articles of chapter IV on the rules of procedure on investigations, investigation measures, prosecution and alternatives to prosecution.

There are remaining reservations and questions which were raised at Council meetings and it was agreed that articles 17-35 would remain frozen for the time being. Accordingly, the consolidated version of Article 1-35 in the draft Regulation is then frozen.

The Netherlands Presidency is continuing the work to establish a consolidated revised version of the full text of the Regulation. It has organised five working days in the COPEN Working Party, focusing on the provisions on relations with partners, financial and staff provisions and the general provisions. The provisions related to the protection and exchange of personal data will be examined later. The state of the negotiations and the future challenges are expressed on 3 March 2016 in a policy debate document.

The Presidency is very close to reach a compromise on Articles 48-53 (financial provisions), 54-55 (staff provisions), 56-58a (relations with partners) and 62-75 (general provisions) of the draft Regulation. A compromise was also reached on three provisions related to the establishment of an Administrative Director of the EPPO.

Proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol)

On 27 March 2013, the European Commission submitted a proposal for a Regulation on Europol (COM(2013) 173 final). This proposal seeks to replace Council Decision 2009/371/JHA establishing Europol by a new Regulation based on Article 88 TFEU, and to increase Europol's efficiency, effectiveness and accountability. This was to be achieved by enhancing Europol's analytical capabilities and triggering operational action on the part of Member States while at the same time strengthening even further the agency's data protection regime. In order to enhance efficiency, and in line with the common approach on decentralised agencies, the proposal intended to merge Europol with the European Agency for Law Enforcement Training (CEPOL). However, as a result of the widespread and strong opposition expressed both in Council formations and in LIBE Committee against the merger of Cepol with Europol, the Commission decided to renounce to this aspect of its legislative proposal. Provisions on governance as presented in the proposal also stemmed from the common approach on decentralised agencies. With regard to operational cooperation between the agencies, the proposal included a provision on Eurojust and OLAF's access to Europol's databases). Finally, in accordance with article 88 TFEU, the proposal includes a general provision on parliamentary scrutiny of Europol's activities.

The plenary of the European Parliament adopted its first reading position 25 February 2014, whereas the JHA Council adopted its general approach in its meeting on 5-6 June 2014. The differences between the two institutions' approaches include OLAF's access to Europol's databases, which the European Parliament has excluded in its first reading position.

The negotiations between co-legislators continued in trilogues between October 2014 and November 2015. In October 2014, the Presidency of the Council presented the outcome of the first trilogue.

Overall, ten trilogues were held under the Italian, Latvian, and Luxemburg Presidencies. A final compromise was found during the tenth trilogue on 26 November 2015. The political agreement reached between co-legislators was endorsed by COREPER on 27 November 2015, and by the LIBE Committee on 30

November 2015. The Common position notably lays down provisions necessary for the functioning of the Internet Referral Unit (IRU), which is one of the important anti-terrorist measures designed to reduce the volume and accessibility of the terrorist propaganda online. The IRU was a new element to the regulation introduced following the terrorist attacks in Paris in 2015. It would allow Europol to transfer publicly available personal data to private parties, if necessary to support Member States in the prevention and fight against the crime falling under Europol's mandate, committed or facilitated by the use of internet. Concerning Europol's governance, the Common position differs significantly from the Commission's proposal. In this respect, the Commission made a political declaration underlining that the agreed text is not fully aligned with the principles of the common approach. With regard to operational cooperation between the agencies, following a strong request by the European Parliament, the access by Eurojust and OLAF to information stored by Europol has been limited to an indirect one, based on a hit-no-hit system. The Common position enhances the cooperation between the European Data Protection Supervisor (EDPS) and national supervisory authorities. Even if the Commission accepted the creation of a Cooperation Board, it specified in its political declaration that the functions exercised by the Cooperation Board shall be taken up by the European Data Protection Board created in the context of the Data Protection reform. Finally, concerning parliamentary scrutiny, the Common position provides for the creation of a Joint Parliamentary Scrutiny Group (JPSG) responsible for the political monitoring of Europol's activities.

The Council adopted its position at first reading on 10 March 2016 and the text was formally approved by the LIBE Committee on 28 April 2016. The LIBE Committee vote paves the way for the final approval of the new rules by plenary of the European Parliament on 11 May 2016.

Once adopted, the Regulation will replace the current Decision and will enter into application as from 1 May 2017.

Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust)

On 17 July 2013, the European Commission submitted a proposal for a Regulation on Eurojust (COM(2013) 535 final). This proposal seeks to replace the consolidated version of Council Decision 2002/187/JHA. It aims at providing a single and renovated legal framework for Eurojust, streamlining its functioning and structure in line with the Lisbon Treaty and the common approach on decentralised agencies. Several objectives are pursued, notably providing Eurojust with a new governance structure, homogeneously define the status and powers for national Members, involving the European and national parliaments in the evaluation of its activities, and ensuring that Eurojust could cooperate closely with the EPPO, once it is established. However, the proposal does not exhaust the possibilities offered by Article 85 TFEU, in particular, the possibility to entrust Eurojust with the task of initiation of investigations and of resolution of conflicts of jurisdiction is not implemented.

During the JHA Council meeting of 12-13 March 2015, a general approach was

adopted. It notably reflects a different vision on Eurojust's governance, the powers of the national members and the data protection regime. In addition, the provisions relating to the EPPO have been excluded from the general approach, as the negotiations on the Regulation for the establishment of the EPPO are not sufficiently advanced. It is envisaged that a further mandate for discussions concerning the EPPO related provisions shall be sought from COREPER at a later stage in the discussions with the European Parliament.

The European Parliament has yet to adopt its position on the proposal and will do so at the same time as on the EPPO regulation. The rapporteur, Axel Voss, only published a working document reflecting his first analysis of the proposal.

Approximation of substantive criminal law

Proposal for a Directive in the fight against fraud to the Union's financial interests by means of criminal law

The proposal for a Directive on the protection of the financial interests of the EU (COM(2012) 363 final) would replace the Convention on the protection of the European Communities' financial interests of 26 July 1995, including its Protocols of 27 September 1996, 29 November 1996 and 19 June 1997. It provided for the obligation to criminalise the behaviours described in the proposal and contained rules on imprisonment thresholds, types of sanctions, liability of legal persons, freezing and confiscation, jurisdiction, etc.

Whereas the proposal was initially based on Art. 325(4) TFEU (prevention of and fight against fraud affecting the financial interests of the Union), the Council changed it in its general approach of June 2013 for Art. 83 (2) TFEU, which entails the application of specific rules regarding instruments of judicial cooperation in criminal matters (possibility for UK and Ireland to opt-out).

After the report of the Committee on Budgetary Control and the Committee on Civil Liberties, Justice and Home Affairs (Rapporteurs: Ingeborg Gräßle, Juan Fernando López Aguilar) and the opinion of the Committee on Legal Affairs (Rapporteur : Tadeusz Zwiefka), the plenary of the European Parliament endorsed in its first reading position on 16 April 2014 the Council's change of legal basis. Nonetheless, there are some significant differences between the two texts which had to be addressed in the course of inter-institutional negotiations, including the definition of "the Union's financial interests", the question whether or not VAT offences should be included in the scope of the proposal, and the definition of public official, which according to the European Parliament's first reading position was limited to "Members of bodies" and did not cover "institutions, offices and agencies".

Trilogue discussions under the Italian Presidency began in September 2014 focusing on the scope of the Directive, the definition and scope of offences covered by the Directive and extra-territorial provisions. On the 27 November 2014, the

Presidency recalled that a few substantive issues remained open. For this reason, the Presidency underlined the risk that the adoption of this Directive may be considerably delayed.

The last trilogue was held on 2 June 2015. The Council and the Parliament still had conflicting positions on one key issue, namely the inclusion of VAT fraud in the scope of the PIF Directive.

The release of the *Taricco* judgment by the Court of Justice of the European Union on 8 September lead to restarting the discussions and made the Council to reconsider its position. In this decision, the CJEU, interpreting the 1995 PIF Convention, clearly asserted that VAT fraud was included in the scope of the PIF Convention. Following this judgment, the Presidency asked delegations and ministers whether that judgement had led them to change their positions in the ongoing negotiations. After informal exchanges, the Luxembourg Presidency decided to reopen the negotiations on that point and to propose the inclusion of major VAT fraud in the scope of the Directive.

The Luxembourg Presidency chose to have the possible inclusion of major VAT fraud in the Directive examined by experts. The final purpose was to re-opening the negotiations with the European Parliament on this file. The Presidency organised a working party (DROIPEN) on 28 October 2015 in order to discuss those questions. The results were summarized in a state of play released by the Presidency on 24 November 2015.

Processing of personal data for law enforcement purpose

With regard to EU international agreements on PNR, it is worth mentioning that following a request from the Parliament the Court of Justice will give an opinion on the agreement envisaged between the European Union and Canada on the transfer and processing of Passenger Name Record data, which will clarify the compatibility of this practice with fundamental rights.

Approximation of procedural criminal law

Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings

On 27 November 2013, the European Commission submitted a proposal for a Directive on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings (COM(2013) 821 final). The proposal aims to strengthen certain aspects of the right to be presumed innocent until proven guilty by a final judgment and the right to be present at one's trial.

The Council adopted its general approach on 4 December 2014, at the end of the Italian Presidency's mandate. It specified the personal and temporal scope of application of the Directive. It reflects a different understanding notably of what is considered to undermine the presumption of innocence and of the reversal of the burden of proof.

In turn, the LIBE Committee of the European Parliament adopted its draft report on 21 January 2015 and its orientation vote on 31 March 2015 (rapporteur: Nathalie Griesbeck). The Committee report was tabled for plenary 1st reading/single reading on 21 April 2015. The Committee proposed some important amendments. First and foremost, it proposed to extend the scope of application of the Directive to similar proceedings of a criminal nature leading to comparable sanctions of a punitive and deterrent nature and to legal persons. It went further than the Council in the understanding of what is considered to undermine the presumption of innocence. Most importantly, the Committee rejected the proposed Art. 5(2) on the burden of proof, by arguing that the reversal of the burden of proof in criminal proceedings would be unacceptable. Finally, the Committee wanted to reinforce the exclusionary rule by providing that any evidence obtained in violation of the right against self-incrimination and cooperation or of the right to remain silent must be inadmissible.

Five trilogues were held between January and October 2015, under the Latvian and Luxembourg Presidencies. On 4 November 2015, COREPER approved the compromise text agreed with the European Parliament during the fifth trilogue.

The Directive was signed on 9 March 2016, and published in the Official Journal on 11 March 2016 (OJ L 65). It has to be implemented by the Member States by 1 April 2018. Contrary to the initial approach adopted by the LIBE Committee, this text excludes legal persons from the scope of the Directive. It reflects a compromise position on what is considered to undermine the presumption of innocence, on the admissibility of evidence obtained in breach of the right against self-incrimination or of the right to remain silent and on the reversal of the burden of proof. Concerning the latter, the Commission expressed reservations with

respect to the deletion of Article 5(2). It also expressed its reservations on the final version of Article 7(6) on the right to remain silent and the right not to incriminate oneself with regard to minor offences

Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings

On 27 November 2013, the European Commission submitted to the European Parliament and the Council a proposal for a Directive on procedural safeguards for children suspected or accused in criminal proceedings (COM(2013) 822 final). This proposal sets out specific minimum rules concerning the rights of suspected or accused children in criminal proceedings to ensure that they are able to understand and follow criminal proceedings, including by having mandatory access to a lawyer at all stages.

In June 2014, the JHA Council reached its general approach.

On 12 February 2015, the LIBE Committee of the European Parliament (Rapporteur: Caterina Chinnici) adopted its draft report on the proposal. The Committee followed an approach similar to the one suggested by the European Economic and Social Committee in its opinion.

The first trilogue took place on 4 March 2015, and the first technical meeting was held on 17 March 2015. A provisional agreement was reached on several provisions during the subsequent trilogues. On 15 December, during the 9th trilogue, an agreement was found. On 16 December 2015, the Permanent Representatives Committee confirmed the final compromise text that had been provisionally agreed during the 9th trilogue between the Presidency and the representatives of the European Parliament. It confirmed that the remaining reservations had been lifted. This was also confirmed by a resolution of the Parliament on 9 March, adopting the test in first reading.

Two changes have to be pointed out. Firstly, the agreement does not address the issue of the formal classification of proceedings in national law, the Directive is then limited to criminal procedure without taking any more into account the effects on the lives and development of the children concerned. Secondly, the extension of the scope of the Directive to suspects or accused persons until the age of 21, was accepted to a limited extent.

Directive 2016/800 of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings was published in the Official Journal on 21 May 2016 and the deadline for transposition of the Directive is 11 June 2019.

EU agencies and bodies

Regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL) and replacing and repealing Council Decision 2005/681/JHA

On 16 July 2014, the European Commission put forward a proposal for a Regulation establishing CEPOL (COM(2014) 465 final), repealing and replacing the Council Decision 2005/681/JHA. The proposal seeks to boost CEPOL's role as the European Agency for Law Enforcement training. It gives CEPOL the appropriate legal mandate and the necessary resources to implement the EU Law Enforcement Training Scheme (LETS) proposed in March 2013, which aims to equip law enforcement officials of all ranks with the knowledge and skills they need to prevent and combat cross-border crime. It updates and clarifies CEPOL's objectives and attributes a number of new tasks to CEPOL. It also mandates Member States to establish a national unit, which notably has to respond to requests for information from CEPOL, and to appoint an official as the Head of the national unit, who will be National contact point of CEPOL and the Member State's representative at the Management Board. The administrative and management structure of CEPOL is modified to better reflect the common approach on decentralised agencies.

The LIBE Committee of the European Parliament adopted its draft report on 25 November 2014 and its orientation vote on 24 February 2015 (rapporteur: Kinga Gál).The Committee report was tabled for plenary 1st reading/single reading on 12 March 2015.

Trilogue negotiations started in March 2015 and a compromise between co-legislators was reached during the JHA Council meeting of 15-16 June 2015. This agreement was endorsed, on behalf of the Council, by COREPER on 29 June 2015.

The plenary of the European Parliament adopted its first reading position 29 October 2015. The Council adopted the proposal on 16 November 2015. The final act was signed on 25 November 2015 and published in the Official Journal on 4 December 2015 (OJ L 319). It will enter into force on 1 July 2016. Even if the final text maintains most changes made to CEPOL's legal framework by the Commission's proposal and adds some elements to it, such as an implementation role in CEPOL's objectives, some elements put forward in the proposal were deleted, in particular the reference to LETS in the operative part of the regulation to the Head of national unit

Processing of personal data for law enforcement purpose

Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA

On 25 January 2012, the Commission proposed a new framework for data protection in the EU including two legislative proposals: the first being a proposal for a Regulation, setting out a general EU framework for data protection, and repealing the Directive 95/46/EC; and the second a proposal for a Directive on protecting personal data processed for law enforcement purposes, replacing Framework Decision 2008/977/JHA (COM(2012) 10 final). The Directive would apply to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. Its scope would be broader than that of the current Framework Decision since domestic processing operations would also be covered in addition to "cross-border" data.

Following this proposition, the European data protection supervisor issued an opinion on 7 March 2012. Similarly, the European Fundamental rights agency issued on opinion on 1 October 2015.

Following the report of the Committee on Civil Liberties, Justice and Home Affairs (Rapporteur : Dimitrios Droutsas) and the opinion of the Committee on Legal Affairs European Parliament adopted its first reading position on 12 March 2014.

Regarding the Council, the proposed Directive has been discussed in the Working Party on information exchange and data protection (DAPIX) under every Presidency since the beginning of 2012. In September 2014, the scope of the Directive was the subject of a discussion.

Work on this proposed Directive continued under the Luxembourg Presidency with the aim to reach an agreement on the whole data protection package by the end of 2015. A compromise was drafted in order to reach a general approach during the JHA Council which took place on 8-9 October. The Council agreed on this negotiating position, which allowed the Luxembourg presidency to start discussions with the European Parliament and to organise a first trilogue on 27 October 2015. The Presidency issued a preparatory document in this view.

In the meantime, the European data protection supervisor issued a general opinion on the 27th of July and an addendum on the 9th of October. These documents were related to the general package on data protection. The European data protection supervisor issued a specific opinion on 28 October 2015 on the Directive for data protection in the police and justice sectors. Several recommendations were made

Following a trilogue on 17 and 18 December 2015, the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament and the Permanent

Representatives Committee of the Council confirmed an agreement on the compromise text resulting from the negotiations. An analysis of the agreement was released by the Presidency in order to underline the main compromise that were reached. On 12 February 2016, the Council reached a political agreement on the draft Directive. On 8 April the Council adopted its position at first reading, fully in line with the compromise text. The Council simultaneously published a statement of reasons explaining the position. The Czech Republic issued a statement on this vote, arguing that this Directive is not in full conformity with the principle of subsidiarity, does not address the issue on the relationship between the new Directive and existing instruments of judicial cooperation in criminal matters or police cooperation, and imposes disproportionate burdens on competent authorities and foresees an implementation period which is unreasonably short. On 11 April 2016, the Commission released a communication to confirm its support for this agreement. Because no amendment has been adopted by the Council, the Council's position at first reading was approved by the European Parliament. The final document was released on 27 April 2016. Directive 2016/680 has been published in the official journal on 4 may 2016 (OJ L 119).

Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

The Commission issued on 2 February 2011 a proposal for a Directive on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, (COM(2011) 32 final). It followed a previous proposal for a Framework Decision made on 6 November 2007 which intended to provide for a reactive, real time, and proactive tool to law enforcement authorities in the fight against terrorism by using data collected by air carriers. The first proposal for a Framework Decision was not adopted.

The European Data Protection Supervisor released an opinion on 25 March 2011, explaining that it was a better proposal but still needed changes to be considered as sufficiently balanced. Similarly, the opinion issued by the European Economic and Social Committee on 5 May 2011 underlined the risk that this proposal steps up "security at the expense of citizens' rights". The Article 29 Working Party on Data Protection's opinion and the European Fundamental Rights Agency's opinion did also raise serious doubts about this proposal. The Council adopted a general approach on the text proposed by the Commission on 23 April 2012, before starting the negotiations with the Parliament. This first draft of the Directive was rejected by the LIBE Committee (Rapporteur: Timothy Kirkhope) of the European Parliament on 24 April 2013, questioning its necessity and its proportionality, on and was no longer considered as a priority.

The project regained attention at the beginning of 2015 after the terrorist attacks in Paris. In a resolution on anti-terrorism measures adopted on 11 February 2015, the European Parliament stated that the PNR Directive should be adopted by the end of the year. The Parliament stressed the necessity to take into account the fundamental rights

principles and the *Digital Rights Ireland* Judgment. The LIBE Committee of the European Parliament (Rapporteur: Timothy Kirkhope) issued on 17 February a first draft report on the proposition, and a second report on 7 September.

An informal meeting of the Heads of State or Government on 12 February 2015 asked the EU legislators to urgently adopt a strong and effective European Passenger Name Records Directive with solid data protection safeguards. Following this, the COREPER agreed on 18 February 2015, that the general approach should be used as a basis for informal trilogues with the European Parliament. The Luxembourg presidency started the discussion in order to prepare the first informal trilogue held in September 2015. The JHA Councils on 12-13 March and on 15-16 June reiterated the crucial importance of soon reaching an agreement on PNR. The document issued by the Presidency underlined the key elements that needed to be discussed.

In its second opinion on the proposal on 24 September, the European Data Protection Supervisor pointed out that in spite of the improvement made, the draft still did not comply with necessity and proportionality principles.

After the terrorist attacks in Paris this 13 November 2015, the Council reiterated the urgency and priority to finalise an ambitious EU PNR before the end of 2015. On 2 December 2015, after negotiations with the Parliament, the Council issued the proposed compromise for approval of a final compromise text

At the same time, considering the current security situation in Europe, the Member states issued a declaration to the minutes of the Council. They declare that they will make full use of their possibility to include intra EU-flights in the scope of their national law implementing the Directive. Moreover, they will undertake to extent the collection of PNR data to non-air carrier such as travel agencies and tour operators which provide travel-related services including the booking of flights for which they collect and process PNR data (this was later repeated in a statement of the Council).

The plenary of the European Parliament adopted its position at first reading, on 14 April 2016 with only one amendment to the proposed draft, requesting the Council to adopt at the same time the PNR Directive and the package on data protection. The Council adopted unanimously the Directive in first reading on 25 April 2016. The final text was adopted on 27 April 2017. Directive 2016/681 has been published in the official journal on 4 May 2016 (OJ L 119).

CASE LAW

JUDGMENTS

Pal Aranyosi and Robert Căldăraru (Joined Cases C-404/15 and C-659/15 PPU) - Judgment of the Court (Grand Chamber) of 5 April 2016

A) Factual and legal background

Two requests for preliminary rulings were introduced by the *Hanseatisches Oberlandesgericht in Bremen* (Higher Regional Court of Bremen) regarding the execution of EAWs issued by Member States condemned for their prison conditions. The first case involved the issuance of two EAWs by a Hungarian judge against Mr Aranyosi, a Hungarian national residing in Germany, for two accounts of burglary. The second case involved Mr. Căldăraru who was sought for the execution of a criminal conviction in Romania for the offence of unlicenced driving.

The ECtHR has convicted both Hungary and Romania for violation of Article 3 ECHR (prohibition of torture and of inhuman and degrading treatment) due to overcrowding prisons. In this context, the referring Court enquired whether Article 1(3) of the EAW FD –providing that the EAW FD shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principle as enshrined in Article 6 TEU- could be interpreted as meaning that the execution of an EAW could or should be refused in cases where there is solid evidence that detention conditions in the issuing Member State are incompatible with fundamental rights, in particular with Article 4 of the Charter, or whether in such cases the executing Member State can or must make the surrender conditional upon assurances that detention conditions are compliant.

B) Opinion of the AG Yves Bot (delivered on 3 March 2016)

AG Bot delivered his views only a few weeks after the hearing (for an analysis of the major arguments presented see here). He first considered whether **the principles elaborated in *N.S. and Others* (C-411/10 and C-493/10) could be applied by analogy** in the present case. He responded to the negative invoking a series of reasons: a) the Common European Asylum System is harmonised while EU Criminal law remains governed by the territoriality of criminal law; b) the different purposes pursued (protection and solidarity v punishment and prosecution); c) the different nature of mechanism (purely administrative procedure v purely internal Union mechanism); d) detention in the CEAS is the exception, while in the EAW is the rule; e) what is at stake in the present case is public order and public security and not to make an exception to the rule of territorial jurisdiction. He opined that applying N.S. could lead to a violation of the principle of equal treatment. (paras 39-65).

Furthermore, **he rejected that Article 1(3) EAW FD can be interpreted as**

constituting a ground for refusing the execution of an EAW (para. 78-93). He took the view that such an interpretation would be contrary to the general scheme of the EAW, since it would not only introduce a ground for refusal not foreseen by the EU legislator, but it would also against its will to reserve the suspension of the EAW system in specific and strictly defined circumstances.

Then, he recalled that the EAW FD is based on two key principles; mutual recognition and mutual confidence. He analysed the case law of the CJEU to conclude first that the Court favours a smooth operation of the EAW mechanism (paras 94-105) and second that the obligation to respect fundamental rights is key in enhancing mutual recognition. In this regard, he took the view that a ground for non-execution based on the risk of infringement, in the issuing Member State, of the fundamental rights of the surrendered person would substantially undermine the relationship of trust between Member States, therefore nullifying the principle of mutual recognition of judicial decisions (paras 106-122).

In order to strike a balance between the rights of the surrendered person against the rights and freedoms of others, the Advocate General proposed an intermediate solution on the basis of the principle of proportionality. In this regard, he suggested that **a review of the proportionality of an EAW may take place by the executing judicial authority** (para 160). This is because the obligation to recognise a foreign decision as its own does not entail the execution of a European arrest warrant which does not satisfy the conditions required expressly and implicitly by the Framework Decision which governs a particular aspect of mutual recognition (para. 163). Therefore, in cases of systemic deficiencies in the detention conditions in the issuing Member States, the executing judicial authority must be able to ask the issuing judicial authority for any information it considers necessary, in order to determine whether the surrender of the person subject to the EAW may expose him/her to disproportionate detention conditions (paras 167-168).

Experts in criminal justice from across the EU co-signed a document sent to the Commission raising concerns about the AG Opinion claiming that it does not clarify that the judicial authority can refuse the EAW, even if it confirms there will be a risk of inhuman or degrading treatment. In effect, if the CJEU would follow that opinion, a series of national implementing laws including a ground for refusal on the basis of fundamental rights would be incompatible with the EAW FD.

C) The Court's judgment (delivered on 5 April 2016)

The Grand Chamber first recalled the fundamental importance of the principles of mutual recognition and mutual trust for maintaining an area without internal borders (para 78). In this context, refusing the execution of an EAW must only be based on the grounds for refusal as set out in Article 3 and 4 of the EAW FD (paras. 80-81). Furthermore, it made reference to Opinion 2/13 where it is stated that limitations of the principles of mutual recognition and mutual trust could be made 'in exceptional circumstances' and to Article 1(3) EAW FD.

Then, by focusing on the absolute nature of the prohibition of inhumane and degrading treatments/sentences as enshrined in Article 3 ECHR and 4 EU Charter, the Court opined that when the executing judicial authority holds evidence that there is a real risk of inhumane and degrading treatment of detainees in the issuing State, it 'is **bound to assess the existence of that risk**' (para 88). To that end, it must rely on 'objective, reliable, precise and duly updated elements' establishing the conditions of detention in the issuing Member State. These elements may establish systemic or generalised deficiencies, or deficiencies limited to certain detention centres or with regard to specific groups of people (para 89). According to the Court, Article 3 ECHR imposes a positive obligation to ensure that any prisoner is detained that guarantee respect for human dignity (para 90).

The Court was mindful to point out that if the executing judicial authority establishes such risk, this is not sufficient to prevent the execution of the EAW (para 91). It also 'has to make a further assessment, specific and precise, of whether there are substantial grounds to believe that the individual concerned will be exposed to that risk because of the conditions for his detention envisaged in the issuing Member State' (paras 92-4). In this regard, the issuing judicial authority may be requested to provide as a matter of emergency, any additional information necessary to establish the conditions in which the person will be detained in the issuing State (para 95).

If the executing judicial authority is convinced of the existence of a real risk of inhumane and degrading treatment, it **must postpone -but not abandon-** the execution of the EAW and inform Eurojust about its decision (para 98). The executing judicial authority must also decide on whether the person will remain detained (paras 100 – 102). Otherwise, if the executing judicial authority is not convinced about the existence of such risk, it must adopt, within the timeframe as set out in the EAW FD, its decision about the execution of the EAW (para 103)

AG Opinions

Bob Dogi (C-241/15) - Opinion delivered on 2 March 2016

This case involves Mr Bob-Dogi, a Romanian national, who has been the subject of a EAW issued by a Hungarian judicial authority for prosecution purposes. He was arrested in Romania and placed in detention, while waiting for a decision upon the execution of the EAW issued against him. The Romanian executing judicial authority enquired whether the arrest warrant to which the EAW FD refers in its Article 8(1) has to be a national arrest warrant, distinct from the EAW, and, if so, whether the absence of such national warrant constitutes an implicit ground for refusal to execute the EAW.

Advocate General Bot pointed out the distinction between a national arrest warrant and an EAW and invited the Court to interpret the EAW FD as making the submission of an EAW conditional upon

the existence of a national arrest warrant or another judicial decision with similar force (para. 104). He highlighted that an EAW should be based on a separate national arrest warrant (para 31). Three main arguments were inferred in this regard. First, he claimed this interpretation derives from the terminological autonomy of the EAW. It is the wording of Article 8(1)(c) that proves that the term 'arrest warrant' is distinct from the term 'European arrest warrant'. Secondly, he took the view that an alternative interpretation would signify that the person against whom the EAW is issued is deprived from the procedural guarantees provided for the issuance of a national judicial decision (paras 53-76). The existence of a national decision constitutes an essential guarantee for preserving the balance between the efficiency of criminal justice and the protection of fundamental rights in the EAW system (paras 55-56). Furthermore, this condition is essential for the existence of mutual trust (paras. 59 and 63) and for the respect of the rights of the person sought (paras 64-66). As for the third reason why a national decision is required, this involves the risk to bypass a review of the proportionality of an EAW (paras 77-103), with the AG claiming that the obligation to review the proportionality falls directly from the FD itself (paras 87-97).

As for the second question, the AG made clear that the lack of a national legal basis constitutes a substantial flaw/irregularity that prevents the judicial act from being characterised as an EAW (para 109).

Piotr Kossowski (C-486/14) - Opinion delivered on 15 December 2015

This case is another addition to the pile of *ne bis in idem* cases. The facts involve Mr. Kossowski, a Polish national, who after allegedly committed an offence in Gemrny, drove back to Poland where he was arrested for other crimes. The Polish authorities introduced investigations in relation to the events taken place in Germany, but decided to drop the case due to insufficient available information since it had not been possible to hear witnesses residing in Germany. Such a decision is considered to be 'final' after six months and can only be reopened if there is new 'essential evidence' against the suspect.

Some years later the Hamburg Prosecutor's Office intended to prosecute Mr. Kossowski for the same acts. In this context, it enquired whether the reservation entered by Germany that it is not bound by Article 54 of the CISA if the crime was committed wholly or partly on its sovereign territory is still valid (Article 55(1)(a)). If not, the referring Court further enquired whether the notion of 'definitive decision' applies in a case discontinued 'without any obligations imposed by way of penalty having been performed and without any detailed investigations'.

As regards the first question, AG Bot found that the reservation of Article 55(1)(a) CISA does not respect the basic content of the *ne bis in idem* principle, is no longer necessary in view of the case law of the CJEU and should no longer be valid in the light of Article 50 of the EU Charter (paras 26-68). He took the view that the case law of CJEU does not merely include in these concepts the material acts, but

also their legal significance (para 54), thus taking into elements such as the intention of the perpetrator (paras 56-57). As a result, there is already much room for interpretation by national authorities that the material acts are not the same and therefore the *ne bis in idem* principle is not applicable.

On the second question, the AG noted that the Polish decision to discontinue the prosecution was taken without hearing the victim and the witness, both residing in Germany (para 69). Consequently, he considered that this decision cannot be qualified as a 'definitive judgment' when it is clear that elements constituting the substance of the legal situation, such as the hearing of the victim and the witness, were not examined by the judicial authorities (para. 89). This proposal is quite innovative in that it stretches the notions of what constitutes an examination of the merits of a case and when a national decision is 'final'. For an analysis of the AG Opinion, see here.

ACADEMIC ACTIVITIES

RESEARCH PROJECTS

Multiple framework contract concerning the supply of impact assessment, evaluation and evaluation related services in the policy areas under the responsibility of DG Justice and Consumers

Ref. JUST/2015/PR/01/0003 LOTI -

ECLAN is involved in this contract (partner) with the College Of Europe and Deloitte (BE).

The above-mentioned partners have been awarded a Framework Contract running for four years. During this period, ECLAN and its partners may receive assignments for DG Justice to carry out different research assignments.

PUBLICATIONS

André Klip, *European Criminal Law*, 3rd edition, Intersentia, January 2016, 592 pages.

Vanessa Franssen, *The Principles of Corporate Sentencing in EU Law*, Hart, April 2016, 476 pages.

Valsamis Mitsilegas, *European Criminal Law*, 2nd edition, Hart, April 2016, 394 pages.

Valsamis Mitsilegas, *European Criminal Law after Lisbon*, Hart, May 2016, 144 pages.

Katalin Ligeti, *Toward a Prosecutor for the EU Vol. 2*, Hart, forthcoming April 2020, 475 pages.

Ruggeri Stefano, Human Rights in European Criminal Law - New Development in European Legislation and case Law after the Lisbon Treaty, Springer, 2015;

Adan Nieto Martin, Marta Munoz de Morales Romero, *Towards a rational Legislative Evaluation in criminal Law*, Springer, June 2016, 303 pages.

Domenico Siclari, *The New Anti-Money Loundering Law – First Perspective on the 4th European Union Directive*, Springer, forthcoming June 2016.

Nikos Passas, *Controlling Terrorist Financing – Towards Evidence Based Mechanism of Control*, Springer, 2016.

Joanna Beata Banach Gutierrez, Christopher Harding, EU Criminal Law & Policies: Values, Principles and Methods, Rutledge, forthcoming August 2016, 296 pages.

Steve Peers, *EU Justice and Home Affairs (4th edition) - Volume I: EU Immigration and Asylum Law*, OUP, March 2016, 640 pages.

Steve Peers, *EU Justice and Home Affairs (4th edition) - Volume II: EU Criminal Law, Policing, and Civil Law*, OUP, March 2016, 480 pages.

Maria Bergstrom, Valsamis Mitsilegas and Theodore Konstadinides, *Research Handbook on EU Criminal Law,* Elgar, January 2016, 672 pages.

Zlata Durdevic and Elizabeta Ivicevic Karas, *European Criminal Procedure Law in Service of Protection of European Union Financial Interests: State of Play and Challenges*, Zagreb University Press, 2016.

UPCOMING EVENTS

Conference, *Criminal Liability of Political Decision Makers*, Ludwig-Maximilians-Universität Münche, 27 and 28 May 2016, Munich, *Link*

Seminar, *Supervising Matters Related to Detention,* ERA, 23 to 24 June 2016, Trier, Link

Conference, *The Future of European Law and Policy 5th Conference on European Law and Policy in Context,* University of Birmingham, Institute of European Law 23 – 24 June 2016, Birmingham, *Link*

Summer School, *The EU Area of Criminal Justice,* co-organised by ECLAN and the IEE - ULB, 4 to 8 July 2016, Brussels, *Link*

Evening Conference, *The fundamental importance of mutual trust for the EU area of criminal justice: reflections following the last ECJ's rulings*, IEE-ULB and ECLAN, 4th July 2016, Brussels register here

Conference, *High Level event on the Establishment of a European Public Prosecutor's Office (EPPO): "State of Play and Perspectives"*, The T.M.C. Asser Instituut and the Law Faculty of Leiden University, 07 to 08 July 2016, The Hague, *link*

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