

Seminar 1

Fundamental rights protection in the context of criminal proceedings in the European Union: The application and relevance of the Charter of Fundamental Rights of the European Union and EU legislation

Warsaw, 26-27 June 2018

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Seminar Venue

To be determined

Introduction

Description: The European Union’s Area of Freedom, Security and Justice, based on the principles of mutual trust and mutual recognition, is preconditioned on the full respect of fundamental rights, which are also the founding values of the European Union. It is the duty and responsibility of EU Member States to ensure compliance with fundamental rights when acting under the scope of EU law, and even more so when they administer criminal proceedings involving the application of EU criminal law instruments. Today, the EU Charter of Fundamental Rights is the pivotal instrument to make recourse to when rights are to be identified and protection standards are pitched. Thus, the proper understanding of the EU Charter, its relevance in national criminal proceedings, and its relationship to the European Convention on Human Rights is key for ensuring that rights under the EU Charter are given full effect, in particular in the context of criminal proceedings.

Experts (to be confirmed)

Jodie Blackstock, *Barrister and Legal Director at JUSTICE*, admin@justice.org.uk

Monika Skinder-Pik, *Prosecutor at the Gdansk Circuit Public Prosecutor’s Office*, mskinder@poczta.fm

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Petra Jeney, *Senior Lecturer*, p.jeney@eipa.eu

Christiane Lamesch, *Programme Organiser*, c.lamesch@eipa.eu



DRAFT Programme

TUESDAY 26 JUNE 2018

- 09.00 **Welcome and mutual introduction**
- 09.15 **The EU Charter and its scope of application**
Coming into force and relevance of the EU Charter, rights covered and standards of protection horizontal provision, the Charter's relation to national protection of fundamental rights. The scope of the EU Charter will be discussed and it will be highlighted in what instances EU Member States act under the scope of the EU Charter 'when implementing EU law', hence operate under the auspices of the EU Charter. (C-399/11, *Stefano Melloni v. Ministerio Fiscal*, C-617/10, *Åklagaren v. Hans Åkerberg Fransson*)
Petra Jeney
- 10.45 Coffee break
- 11.15 **EU legislation on procedural guarantees for suspected and accused persons and their relevance to fundamental rights protection in the EU**
The session will examine in detail how Charter provisions are mapped out in EU secondary legislation to provide a fuller set of fundamental rights guarantees. In this vein the following instruments will be discussed: Directive **2013/48/EU** on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings and the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty. Directive **2010/64/EU** on the right to interpretation and translation in criminal proceedings as well as Directive **2012/13/EU** on the right to information in criminal proceedings.
Petra Jeney
- 12.45 Lunch
- 14.00 **When and how to issue a European Arrest Warrant?**
Proportionality assessment at the issuing authority. Considering the alternatives to the EAW i.e.: MLA, financial penalties FD, transfer of prisoners, pre-trial supervision, EIO. When to issue an EAW? Issuance of European Arrest Warrants in cases that are not prosecution/trial ready. How to fill out the out the EAW form?
Monika Skinder-Pik
- 15.45 Coffee break
- 16.15 **Workshop**
A case study will be presented highlighting the fundamental rights issues in an EAW case with a specific reference to the procedural guarantees and the role of issuing authority. The EAW and fundamental rights related aspects of the case will be discussed with the participants.
Monika Skinder-Pik
- 17.30 **End of Day 1**

WEDNESDAY 27 JUNE 2018

- 09.00 **Human rights protection in the context of EU criminal law, with a particular reference to the European Arrest Warrant**
The session will explore the basic tenets of fundamental rights protection in the EU where particular attention will be made on the CJEU's case law on the interplay between EU fundamental rights protection and the application of the EAW will specifically referred to. (C-404 & 609/15 PPU, *Pál Aranyosi and Robert Căldăraru v. Generalstaatsanwaltschaft Bremen*)
Jodie Blackstock
- 10.30 Coffee break
- 11.00 **Workshop**
A case study will be presented highlighting the fundamental rights issues in an EAW case with a specific reference to the procedural guarantees. The EAW and fundamental rights related aspects of the case will be discussed with the participants.
Jodie Blackstock
- 12.00 **The interplay between the European Convention of Human Rights and the EU Charter of Fundamental Rights**
Session will explain the stance and relevance of the European Convention of Human Rights in EU law its specific relationship to the Charter. The session will also discuss how the European Court of Human Rights reviews EU law and its compatibility with the rights protected in the Convention (ECtHR *Bosphorus Hava Yollari Turizm Ve Ticaret Anonim Sirketi v. Ireland* Appl. No. 45036/08, judgment, ECtHR *M.S.S. v. Belgium and Greece*, Appl. No. 30696/09, ECtHR *Avotin, š v. Latvia*, Appl. No. 17502/07)
Petra Jeney
- 13.00 **Evaluation**
- 13.30 **END OF SEMINAR**

