



Call for Papers

TOWARDS EUROPEAN CRIMINAL PROCEDURAL LAW

Conference to be held on 6 – 7 February 2020, at the Faculty of Law and Political Sciences of the University of Nantes, France

The gradual increase of the European Union's competences in the field of criminal law, and the growing ambition of the European Commission's proposals, make criminal law one of the areas of EU law on which most attention is focused. At the heart of this field, criminal procedural law is made particularly interesting by its position at the intersection of two sectors that were traditionally excluded from the European Union's harmonisation competences: criminal law and procedural law. It also remains an area of significant discrepancies among the Member States. Although the impact of European integration on criminal procedure cannot be studied in isolation from instruments which primarily relate to substantial criminal law, the European law of criminal procedure warrants specific attention.

The conference will be structured around three main topics. The first aims to examine the impact of the emergence of a European criminal procedural law on the judicial systems and procedural laws of the Member States. The second will deal with the - as yet - little studied impact of this emergence on EU procedural law itself. The third will allow further reflection concerning the elaboration of European standards, for instance in the field of fundamental rights, which frame this emerging criminal procedural law.

1/ Scope and Impact of the Intervention of European Union Law on Criminal Procedure

Several European instruments have a direct impact on the functioning of national judicial systems. They form an increasing set of norms which affect national law,

requiring the introduction of new rules, the modification of other, sometimes old rules, or requiring the members of judicial authorities to change their practices. The European Public Prosecutor is one of the best examples of the interpenetration of EU law and national laws in the area of criminal procedure, as it plans to give national prosecutors a 'double-hat'. The extent of the changes that will be necessary in national criminal procedural law remains to be seen and will probably evolve over the years following the inauguration of the European Public Prosecutor's Office. Other instruments belonging to more traditional forms of cooperation in the criminal field, such as the European arrest warrant or Joint investigation teams, or the freezing of assets also require adjustments and contribute to the emergence of a European criminal procedural law. The e-evidence proposals, which relate to cross-border access to evidence within the Union and on an international level, are interesting reactions to the failure of the proposal linking a 'European area of evidence' to the establishment of the European Public Prosecutor. Practices developed within national judicial systems and Eurojust also offer an interesting perspective on the way in which judges and prosecutors adapt to these mechanisms and on the construction of cross-border practices and exchanges which contribute to building European criminal procedural law.

2/ Scope and Impact of the Intervention of Criminal Procedure on EU Procedural Law

The impact of the development of European criminal law on EU procedural law itself must not be overlooked. Its effects first appear in the preliminary reference mechanism, with the establishment and growing use of the urgent preliminary reference procedure and, more generally, the issues that arise out of the Court of Justice's involvement in ongoing national criminal procedures. One might wonder whether such references require a modification of the procedure before the Court. Should such preliminary references take a different shape, considering the tendency of sending the Court questions related to specific circumstances and not merely abstract questions on the interpretation of EU law? The effects of the development of European criminal law also appear in the construction of new forms of imbrication of procedures before the Court of Justice of the European Union and national criminal procedure. Judicial review of the actions of different sections of the EPPO will, if it is to be efficient, require complex mechanisms both at the national level and at the level of EU procedure.

3/ The Need to Construct European Principles to Frame Criminal Procedure

A number of legislative instruments and judicial precedents indicate an ambition to construct common standards in the field of criminal procedure. The EU legislator has introduced several acts to establish minimum standards of protection of the rights of litigants in criminal procedure: victims' rights, rights suspects and accused persons. In addition to this legislative effort, one must note the Court of Justice's contribution, as it seems to act with increasing authority to enforce its own standards for fundamental rights protection in criminal procedure, including through asserting its autonomy from the European Court of Human Rights. A good example of this phenomenon appears in recent case law on *ne bis in idem*. One issue which will be particularly important over the next few years is judicial control over the new tools allowing the collection and exchange of data across the European Union, whose efficiency and broad scope could prove problematic, particularly regarding the right to the protection of personal data and the rights of the defence. The role of European courts in defending a high level of protection for these rights will probably be essential. Similarly, an important topic will be the European Court of Justice's efforts to face the doubts of national authorities regarding fundamental rights protection and respect for the rule of law in other national systems, evidenced by decisions questioning mutual recognition in criminal matters and, therefore, the sustainability of certain instruments such as the European arrest warrant. The construction of a European law of criminal procedure thus raises the question of the establishment of common standards and of the Union's capacity to enforce its own standards.

We invite papers exploring issues related to these three topics. Abstracts, presentations and papers can be in English or French. Young scholars are especially encouraged to submit.

Convenor : Araceli TURMO, University of Nantes

Scientific Committee :

Carole BILLET, University of Nantes
Stefan BRAUM, University of Luxembourg
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Abstracts of up to 800 words should be submitted by **15 September 2019** to the scientific committee, at: coppue2020@gmail.com. Authors should also include a short biographical note.

Selected speakers will be notified by 20 October 2019. Authors whose contributions are accepted will be expected to submit a draft paper (around 10 000 words) by 30 January 2020.

The selected papers will be published.

Any queries about the conference may be addressed to the convenor at coppue2020@gmail.com.