

CONTENTS

	<i>page</i>
Introduction	XI
Abbreviations	XV
THE FIGHT AGAINST TERRORISM IN THE EU: JUDICIAL COOPERATION IN CRIMINAL MATTERS AND PROCEDURAL RIGHTS	 1
<i>Mar Jimeno Bulnes, Julio Pérez Gil, Félix Valbuena González, Cristina Ruiz López</i>	
1. Introduction	2
2. European arrest warrant	4
2.1. General background	4
2.2. EAW issuance	8
2.3. EAW execution	13
2.4. Surrender procedure	17
2.5. CJEU case law and statistics	20
3. European investigation order	23
3.1. General background	23
3.2. Scope of the DEIO. Art. 34 DEIO	23
3.3. Subjects	25
3.3.1. Competent authorities	25
3.3.2. The role of defence	27
3.4. EIO issuing and transmission	27
3.5. EIO recognition and execution	29
3.6. Specific provisions for certain investigative measures	31
3.7. CJEU case-law	32
4. Procedural rights of suspects in criminal proceedings	35
4.1. Introduction	35
4.2. The Green Paper of the Commission (2003)	36
4.3. The failed proposal for a Council framework Decision (2004)	37

	<i>page</i>
4.4. The Directives arising from Roadmap strengthen the procedural rights of suspects and accused in criminal proceedings (2009)	40
4.4.1. Directive on the right to interpretation and translation in criminal proceedings (2010)	42
4.4.2. Directive on the right to information in criminal proceedings (2012)	43
4.4.3. Directive on the right of access to a lawyer in criminal proceedings (2013)	45
4.4.4. Directive on the presumption of innocence and of the right to be present at the trial in criminal proceedings (2016)	47
4.4.5. Directive on procedural safeguards for children who are suspects or accused in criminal proceedings (2016)	49
4.4.6. Directive on legal aid (2016)	50
References	51

THE FIGHT AGAINST TERRORISM IN SPAIN: JUDICIAL COOPERATION IN CRIMINAL MATTERS AND PROCEDURAL RIGHTS

63

*Mar Jimeno Bulnes, Julio Pérez Gil,
Félix Valbuena González, Cristina Ruiz López*

1. Introduction	63
2. European arrest warrant	66
2.1. General background and regime	66
2.2. General provisions	70
2.3. EAW issuance	71
2.4. EAW execution	75
2.5. Spanish case-law: the Puigdemont case	82
3. European investigation order	87
3.1. Introduction	87
3.2. Legal framework	88
3.3. EIO Concept and Scope of application	89
3.4. Issuing and transmission of a EIO in Spain	90
3.4.1. Competent authority	90
3.4.2. Other subjects	91
3.4.3. Proceeding	92
3.4.4. Transmission	94
3.4.5. Statistics	95
3.5. Execution of a EIO in Spain	95
3.5.1. Competent authorities	95

	<i>page</i>
3.5.2. Recognition and execution	96
3.5.3. Modification, postponement and return	97
3.5.4. Statistics	98
3.5.5. Grounds for non-recognition or non-execution	99
3.6. Specific investigative measures	110
3.6.1. General	110
3.6.2. Coercive measures	111
3.7. Legal remedies at Spanish Level	113
4. Procedural rights of suspects in criminal proceedings	114
4.1. Introduction	114
4.2. Right to translation and interpretation	117
4.3. Right to information	118
4.4. Right of access to a lawyer	119
4.5. Right to a legal aid	122
4.6. Pending issues	123
References	124
European and national case-law	129
Legislation	130

THE CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION AND THE ITALIAN ANTI-TERRORISM LEGISLATION 133

Donata Giorgia Cappelluto, Michele Tempesta, Giulia Martini

1. Fundamental rights and antiterrorism: on the delicate balance between constitutional principles	136
1.1. The constitutional principles <i>in tensione</i> : security <i>versus</i> freedom. The constitutional regime of emergency	136
1.2. The Charter of Fundamental Rights of the European Union and the anti-terrorism legislation. Brief remarks	138
1.3. Antiterrorism legislation and protection of specific constitutional rights	142
2. The European framework	148
2.1. Antiterrorism legislation in the light of European Union law	148
2.1.1. EU Directive 2017/541	150
2.2. Antiterrorism legislation (Directive 541/2017) in the light of the ECHR	154
2.3. Article 13 and the right to effective jurisdictional control (Kadi case)	155
2.4. The pronouncement of the Great Chamber <i>Nada c. Switzerland</i> of 12.09.2012	157
3. The legislative and jurisprudential evolution in the field of antiterrorism in Italy	159

	<i>page</i>
3.1. Law n. 438 of 2001	159
3.2. Law n. 155 of 31 July 2005	161
3.3. Law n. 43 of 2015 and Law n. 153 of 2016	164
3.4. Legislative decree n. 68 of 2018	166
THE FIGHT AGAINST TERRORISM IN THE EU: JUDICIAL COOPERATION IN CRIMINAL MATTERS AND PROCEDURAL RIGHTS BULGARIAN REPORT	169
<i>Dilyana Giteva, Hristo Peshev</i>	
1. Introduction	170
2. European arrest warrant and bulgarian legislation and case law	170
2.1. Background	170
3. European investigation order	180
3.1. Background	180
3.2. Scope of the EIOA	180
3.3. Subjects	180
3.3.1. Competent Authority	180
3.3.2. The role of defence	181
3.4. EIO issuing and transmission	181
3.5. EIO recognition and execution	182
3.6. Specific provisions for certain investigative measures	185
4. Procedural rights of suspects in criminal proceedings	185
4.1. Directive 2010/64/EU of the European Parliament and the Council on the right to interpretation and translation in criminal proceed- ings	185
4.2. Directive 2012/13/EU of the European Parliament and the Council on the right to information in criminal proceedings	187
4.3. Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authori- ties while deprived of liberty	188
4.4. Directive 2016/343 of the European Parliament and Council on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (Directive 2016/343)	190
4.5. 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 (Di- rective (EU) 2016/800)	192

	<i>page</i>
4.6. Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings	193
References	194
Conclusion	197