INTERROGATING YOUNG SUSPECTS

Procedural Safeguards from a Legal Perspective

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(eds.)

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Preface and Acknowledgements

This book is the result of the first part of the European Commission funded research project Protecting Young Suspects in Interrogations: a study on safeguards and best practice. The project consists of a legal comparative study, empirical research and the merging of the legal and empirical findings, and its aim is to identify legal and empirical patterns in the procedural protection of juvenile suspects during pre-trial interrogation. The legal study underlying this volume consisted of comparative research into existing procedural safeguards for juvenile suspects during interrogation in the legal frameworks of five selected Member States of the European Union: Belgium, England and Wales, Italy, Poland and the Netherlands. The results of the empirical research, as well as the merging of the legal and empirical findings resulting in a proposal for European minimum rules and best practice on the protection of juvenile suspects during interrogation, will be published in a second volume.

The successful completion of this project has been the joint effort of a large group of people. First and foremost we would like to thank our academic partners – and in-country researchers – for their dedication to the project and the incredible amount of high-quality work they delivered: Claudia Cesari, Deborah Felice, Jackie Hodgson, Vicky Kemp, Justyna Kusztal, Joachim Meese, Vania Patanè and Barbara Staňdo-Kawecka. Comparative legal research can at times be extremely challenging because it is not easy to convey the nuances of one’s own legal system outside its original language and culture. It was thanks to the large knowledge, flexibility, open-mindedness, patience and tenacity of our partners that we only experienced the positive sides of comparative research. Working with them has been an incredibly enriching experience, not only confined to legal matters.

The research and the project as a whole have also benefited enormously from the advice and assistance offered by our supporting partners: PLOT Limburg and Defence for Children who provided support in organising project events, employing social media and disseminating research findings. Thanks particularly to Maartje Berger for her useful practical information and, above all, for her passion and dedication to improving the procedural protection of children.

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Managing and coordinating the project has been the task of the entire Maastricht project team, but three of the four members of the team (Dorris, Michele and Miet) would like to emphasise that it is in particular thanks to the outstanding daily effort of Marc van Oosterhout that everything has run smoothly and efficiently. In addition to conducting large strands of the legal and empirical research, Marc has been responsible for the many organisational and administrative tasks, ranging from setting up project meetings to managing the project website, and many others. Marc has taken up these diverse, challenging duties with the utmost positivity and perseverance and he has proven to be of inestimable value to the project.

The administration of the project was carried out by Maastricht University. Special thanks go to Diana Schabregs for her hard work in the financial management of this project, to Yleen Simonis for organising the final project conference and to the student assistants who have worked with us at different stages of the project: Jakoline Winkels, Elisabeth Pirotta and Jennifer Etoré.

We thank Kris Moeremans and the staff of Intersentia for their involvement in publishing this book.

Finally, we would like to thank the European Commission for funding this project. We truly hope that its results may contribute to the current debate on how to effectively strengthen the protection of juvenile suspects during the initial stages of criminal proceedings.

Michele Panzavolta
Dorris de Vocht
Marc van Oosterhout
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CONTENTS

Preface and Acknowledgements ........................................... v
List of Abbreviations ...................................................... xix
Biographies ................................................................. xxi

Chapter 1. Introduction
Michele Panzavolta and Dorris de Vocht .......................... 1

1. The topic and aim of this study ........................................ 1
2. Setting the scene: juveniles and criminal proceedings ............ 1
   2.1. Typologies of juvenile justice systems ......................... 3
   2.2. Changing philosophies ........................................... 5
3. The interrogation of juvenile suspects ............................... 7
4. This book and the project ‘Protecting Young Suspects in
   Interrogations’ ......................................................... 8
5. The countries involved in this study ................................... 9
6. Harmonising juvenile suspects’ rights ............................... 10
7. Existing international and European safeguards .................... 12
   7.1. CRC and other UN instruments .................................. 13
      7.1.1. General principles .......................................... 13
      7.1.2. Specific safeguards ........................................ 16
   7.2. ECHR and Strasbourg case law ................................... 18
   7.3. Other Council of Europe documents and sources ............... 22
   7.4. The current supranational framework: practical and effective? 25
8. Harmonisation within the European Union .......................... 27
   8.1. ‘The ‘Roadmap’ .................................................. 29
   8.2. Proposal for a Directive on children suspected or accused in
      criminal proceedings ............................................. 32
      8.2.1. The right to be informed on rights .......................... 33
      8.2.2. The right to have an appropriate adult involved .......... 34
      8.2.3. The right to legal assistance ............................... 35
      8.2.4. The right to an individual assessment ...................... 36
      8.2.5. The right to have interviews audio-visually recorded .... 37
9. The methodological approach ......................................... 38
   9.1. The functional method ........................................... 39
   9.2. The country reports and the common template .................. 40
9.3. Challenges in describing national law ........................................ 42
9.4. Definitions .................................................................................. 43
Bibliography ...................................................................................... 44

Chapter 2.
Balancing the Need for Protection and Punishment of Young Delinquents.
Country Report Belgium
Marc van Oosterhout and Joachim Meese ................................. 51

1. THE BELGIAN JUVENILE JUSTICE SYSTEM: GENERAL
OVERVIEW ........................................................................................ 51
1. Background .................................................................................... 51
  1.1. General features of the system ................................................... 51
    1.1.1. Sources of juvenile (criminal) justice in Belgium .............. 52
    1.1.2. Underlying ideology of Belgian juvenile justice ................. 53
  1.2. Brief history of and current trends in criminal juvenile justice
    policy ............................................................................................ 54
    1.2.1. The Youth Protection Act of 1965 ................................... 55
    1.2.2. Reform: the laws of 15 May 2006 and 13 June 2006 and
           sixth state reform ................................................................... 57
2. Structure and main characteristics of the Belgian juvenile justice
system ............................................................................................... 60
  2.1. Minimum age of criminal liability .............................................. 60
  2.2. Definition of juvenile and relevant categories ........................... 60
    2.2.1. Transfer of the juvenile to criminal law ............................. 61
    2.2.2. Requirements of transferral .............................................. 62
    2.2.3. Procedure of transferral .................................................. 63
    2.2.4. Consequences of transferral .......................................... 63
    2.2.5. Accelerated transferral .................................................... 65
    2.2.6. Transferral in case of traffic infringements ...................... 65
  2.3. Measures for juveniles ............................................................... 65
    2.3.1. Reprimand .......................................................................... 66
    2.3.2. Community measures ..................................................... 67
    2.3.3. Residential placement ..................................................... 68
    2.3.4. Custodial measures ........................................................... 68
  2.4. Relevant actors ........................................................................... 69
    2.4.1. Juvenile district council (jeugdparket) ............................... 70
    2.4.2. Juvenile courts and juvenile judges ................................... 70
    2.4.3. Police forces ...................................................................... 72
    2.4.4. Specialist juvenile lawyers .............................................. 72
    2.4.5. Bridging magistrates (verbindingsmagistraten) ................ 73
    2.4.6. Social services ................................................................. 73
    2.4.7. Child’s Rights Commission ............................................. 73
2.5. Main phases of the juvenile ‘criminal’ process. ..................... 74
2.6. Alternatives to imposed measures in juvenile court .................. 76
  2.6.1. Disposal by the prosecutor ...................................... 77
  2.6.2. Restorative measures ............................................. 77
  2.6.2.1. Mediation ...................................................... 77
  2.6.2.2. Group conferencing (herstelgericht groeps-overleg) ............. 78
  2.6.2.3. Written project ................................................. 78
2.7. Some statistics on Belgian juvenile justice ........................... 78
  2.7.1. Communal service, learning projects, group conferencing and mediation ............................................. 79
  2.7.2. Statistics on court imposed measures ............................. 81
  2.7.3. Statistics on juvenile crime ...................................... 81
II. INTERROGATIONS. ................................................................. 82
1. Interrogations of juveniles in the pre-trial phase ........................ 82
  1.1. Concept of interrogation: relevant definitions ........................ 82
    1.1.1. The suspect ...................................................... 82
      1.1.1.1. The suspect during pre-trial investigation (vooronderzoek) ...... 83
      1.1.1.2. The suspect during court proceedings .......................... 83
    1.1.2. Criminal charge ................................................ 84
    1.1.3. Pre-trial investigation – investigative stage and judicial investigation ............................................. 84
      1.1.3.1. The investigative stage ...................................... 85
      1.1.3.2. The judicial investigation ................................. 85
      1.1.3.3. Characteristics of pre-trial investigation .................... 85
    1.1.4. Interrogation ..................................................... 86
  1.2. Types and functions of interrogations ................................ 87
  1.3. Authorities empowered to conduct interrogations of juvenile suspects ...................................................... 90
    1.3.1. Police forces .................................................... 90
    1.3.2. The King’s prosecutor ........................................... 92
    1.3.3. The juvenile judge .............................................. 93
2. The rules for the interrogation of juveniles: general safeguards ....... 94
  2.1. The right to legal assistance ........................................ 94
    2.1.1. Legal assistance during police interrogation .................... 95
    2.1.2. Legal assistance for juvenile suspects deprived of liberty ... 96
    2.1.3. Applicable period for legal assistance .......................... 96
    2.1.4. The lawyer’s role during police interrogation .................. 97
  2.2. Legal aid ................................................................. 98
  2.3. The right to remain silent and caution ............................... 98
  2.4. Presence of appropriate adult ....................................... 99
Chapter 3.
Ensuring 'Appropriate' Protections for Young Suspects.
Country Report England and Wales
Jacqueline Hodgson and Vicky Kemp

I. THE JUVENILE JUSTICE SYSTEM IN ENGLAND AND WALES:
GENERAL OVERVIEW

1. Background

1.1. General features of the system

1.1.1. Statute

1.1.2. Procedural rules

1.1.3. International standards

1.1.4. European Union (EU) law

1.1.5. Civil law

1.2. Brief history of and current trends in juvenile justice policy

1.3. General principles of national juvenile law and juvenile
    criminal justice

1.4. Models of juvenile justice in England and Wales

1.5. The treatment of juveniles in criminal proceedings

II. THE EVIDENCE GATHERING PROCESS

2.5. The case file and the right to disclosure

2.6. The right to interpretation

3. Carrying out the interrogation

3.1. Recording interrogations

3.2. The written report following an audio-Visually recorded
    interrogation

3.3. Transcripts of the interrogation of a juvenile suspect

4. Results of the interrogation

5. Remedies and sanctions

6. Dissemination of interrogations and protection of privacy

6.1. The right to privacy for juvenile suspects

6.2. Trial behind closed doors and dissemination of results of
    juvenile proceedings

6.3. A separate trial for juveniles

7. Relevant comparisons

7.1. Rules for hearing juvenile witnesses and victims

7.1.1. Persons attending the questioning

7.1.2. Location and registration of the questioning

7.2. The hearing of a juvenile suspect by social services

7.3. European Arrest Warrant proceedings

III. CONCLUSIONS

Bibliography
Chapter 4.
Between Respecting 'Traditional' Safeguards and Modern Needs of Protecting Juveniles. Country Report Italy
Claudia Cesari

I. THE ITALIAN JUVENILE JUSTICE SYSTEM: GENERAL OVERVIEW
1. Background
   1.1. General features
   1.2. History and current trends
   1.3. Fundamental principles
2. Structure and main characteristics of the Italian juvenile justice system
   2.1. The juvenile
   2.2. Relevant actors
   2.3. Main phases of the proceedings
   2.4. The alternatives: diversion mechanisms
   2.5. The set of sanctions

II. INTERROGATIONS
1. Introduction
2. General features of interrogations of juveniles during investigations
   2.1. Concept of interrogation
   2.2. Concept of interrogation in relation to concept of charge
   2.3. Different forms of questioning the suspect: 'interrogation' and 'summary information'
   2.4. Assessment of the juvenile's capacity to be interrogated
3. The rules for the interrogation of juveniles: general safeguards
   3.1. The right to legal assistance
      3.1.1. Information on the right to legal assistance
      3.1.2. The right to consultation of a lawyer
      3.1.3. The right to have a lawyer present during interrogation
      3.1.4. Appointment of a lawyer ex officio and legal aid
   3.2. The right to remain silent
   3.3. The right to be informed on rights
   3.4. Information on the charges
   3.5. The right to interpretation and translation
4. The rules for interrogation of juveniles: special safeguards
   4.1. Specialisation of authorities
Chapter 5. 
Protecting Juvenile Suspects in a Pedagogical but Punitive Context. 
Country Report the Netherlands 
Marc van Oosterhout and Dorris de Vocht 

I. THE DUTCH JUVENILE JUSTICE SYSTEM: GENERAL

OVERVIEW 

1. Background 

1.1. General features of the system 

1.2. Brief history of and current trends in juvenile justice policy 

1.3. General principles of national juvenile law and juvenile 
criminal justice 

2. Structure and main characteristics of the Dutch juvenile justice 
system 

2.1. Minimum age of criminal liability 

2.2. Definition of juvenile and relevant categories 

2.3. Relevant actors 

2.4. Main phases of the juvenile criminal process 

2.5. Sanctions for juveniles 

2.6. Alternatives to criminal proceedings 

II. INTERROGATIONS 

1. Interrogations of juveniles in the pre-trial phase 

1.1. Concept of interrogation: relevant definitions 

1.1.1. Suspect 

1.1.2. Charge – first formal allegations towards a suspect 

1.1.3. Investigative stage 

1.1.4. Interrogation 

1.2. Types and functions of interrogations 

1.2.1. Different types of interrogations 

1.2.2. Formal interrogations 

Bibliography
1.2.3. Material interrogations ........................................ 268
1.2.4. Other forms of ‘interrogation’ ............................... 270
1.3. Authorities empowered to conduct interrogations of juvenile
  suspects ............................................................. 271
1.3.1. Police forces .................................................. 271
1.3.2. Public prosecutor ............................................... 272
1.3.3. Juvenile judges .................................................. 273
2. The rules for the interrogation of juveniles: general safeguards .... 274
  2.1. Relevant legal sources and scope .............................. 274
  2.2. The right to legal assistance ................................... 275
    2.2.1. The right to consult with a lawyer before interrogation 277
    2.2.2. The right to legal assistance during interrogation .... 278
    2.2.3. Waiver of the right to legal assistance ................. 279
    2.2.4. Duty legal assistance ..................................... 280
    2.2.5. Ex officio appointment of (duty) lawyers .............. 281
    2.2.6. Specialisation of lawyers .................................. 281
    2.2.7. The right to legal aid for juvenile suspects .......... 282
    2.2.8. Informating the (juvenile) suspect of legal assistance
          and legal aid. ................................................ 282
    2.2.9. Juvenile suspect-lawyer consultations ................... 283
    2.2.10. The role of the lawyer during interrogation ......... 283
  2.3. The right to remain silent .................................... 284
    2.3.1. Informing the (juvenile) suspect of the right to remain
            silent ......................................................... 284
    2.3.2. Possible consequences of exercising the right to remain
            silent ......................................................... 285
  2.4. Presence of appropriate adult ............................... 285
    2.4.1. Procedure for arranging for and requirements of a
            trusted person ............................................ 286
    2.4.2. Role and task of the trusted person ..................... 287
    2.4.3. Waiver of the right to be assisted by a trusted person 288
  2.5. The right to interpretation and translation ................ 288
  2.6. The right to information ..................................... 289
    2.6.1. The right to be informed of rights ...................... 289
    2.6.2. The right to be informed of the case .................... 290
  2.7. Relevant safeguards in other ‘interrogations’ ................ 292
    2.7.1. The caution in formal interrogations – voorgeleiding
            and habeas corpus hearing ................................ 292
    2.7.2. Legal assistance during Halt deliberations ............ 292
    2.7.3. Legal assistance during the prosecutorial disposition
            hearings ..................................................... 293
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.7.4. Legal assistance during habeas corpus and pre-trial detention hearing</td>
<td>293</td>
</tr>
<tr>
<td>2.7.5. Safeguards during mediation proceedings</td>
<td>293</td>
</tr>
<tr>
<td>Section 3: Carrying out the interrogation</td>
<td>294</td>
</tr>
<tr>
<td>3.1. The use of coercion</td>
<td>294</td>
</tr>
<tr>
<td>3.2. Number, duration and structure of interrogations</td>
<td>296</td>
</tr>
<tr>
<td>3.3. Timing of the interrogation</td>
<td>296</td>
</tr>
<tr>
<td>3.4. Assessment of fitness for interrogation</td>
<td>297</td>
</tr>
<tr>
<td>3.5. Rules on posing questions to juvenile suspects and structure of interrogations</td>
<td>297</td>
</tr>
<tr>
<td>3.6. Location of juvenile interrogations</td>
<td>298</td>
</tr>
<tr>
<td>3.7. Audio and audio-visual recording of interrogations of juvenile suspects</td>
<td>298</td>
</tr>
<tr>
<td>3.8. Transcripts of the interrogation of a juvenile suspect</td>
<td>299</td>
</tr>
<tr>
<td>Section 4: Outputs of the interrogation</td>
<td>300</td>
</tr>
<tr>
<td>Section 5: Remedies and sanctions</td>
<td>301</td>
</tr>
<tr>
<td>Section 6: Dissemination of results of interrogation and protection of privacy</td>
<td>304</td>
</tr>
<tr>
<td>Section 7: Rules for hearing juveniles as witnesses and victims</td>
<td>305</td>
</tr>
<tr>
<td>III. CONCLUSIONS</td>
<td>307</td>
</tr>
<tr>
<td>Bibliography</td>
<td>309</td>
</tr>
</tbody>
</table>

Country Report Poland
Barbara Stańdo-Kawecka and Justyna Kusztal

I. THE POLISH JUVENILE JUSTICE SYSTEM: GENERAL OVERVIEW

1. Background
   1.1. Main sources of Polish criminal and juvenile law
   1.2. Historical development of juvenile law
      1.2.1. The approach to juvenile offenders in the codes of 1928 and 1932
      1.2.2. The Juvenile Act of 1982
      1.2.3. Developments after 1982
   1.3. General principles of juvenile law

2. Structure and main characteristics of the Polish juvenile justice system
   2.1. Minimum age of criminal liability
   2.2. Definition of juvenile and relevant categories
   2.3. Proceedings in juvenile cases
      2.3.1. Structure of juvenile proceedings before the 2013 amendment
2.3.1.1. Explanatory proceedings .................................................. 327
2.3.1.2. Court (adjudicatory) proceedings ..................................... 330
2.3.1.3. Principles of criminal procedure in correctional proceedings ........................................ 331
2.3.2. Structure of juvenile proceedings since the 2013 amendment ..................................................... 333
2.4. Provisional measures ............................................................... 334
2.5. Relevant actors ................................................................. 336
3. Sanctions for juveniles .............................................................. 338
3.1. Educational measures ........................................................... 338
3.2. Medical measures .............................................................. 339
3.3. Correctional measures ......................................................... 339
4. Diversion ................................................................................. 342
II. INTERROGATIONS .................................................................. 343
1. Listening to (wysłuchanie) and interrogation of (przesłuchanie) a juvenile ............................................. 343
1.1. Listening to (wysłuchanie) a juvenile before the 2013 amendment ..................................................... 344
1.2. Listening (wysłuchanie) to a juvenile after the 2013 amendment ....................................................... 346
1.3. Interrogation by the police in ‘urgent cases’ before the 2013 amendment ............................................. 347
1.3.1. Safeguards applicable during interrogation by the police ............................................................. 347
1.4. Interrogation by the police in ‘urgent cases’ after the 2013 amendment ................................................. 349
1.4.1. Rules on carrying out the interrogation ......................................................... 350
1.4.2. Right to an appropriate adult ................................................................. 351
1.4.3. Other safeguards applicable during interrogation by the police ................................................. 352
2. Right to a defence ..................................................................... 352
2.1. Right to a defence before the 2013 amendment ................................................................................. 353
2.1.1. Right to legal assistance during listening to a juvenile by a family judge ........................................ 354
2.1.2. Right to legal assistance during interrogation of a juvenile by the police ....................................... 354
2.1.3. Violation of the right to defence in the case of Adamkiewicz v. Poland ........................................... 355
2.2. Right to defence after the 2013 amendment ......................................................................................... 355
3. Right to an interpreter and translation of documents .................................................................................. 357
4. European arrest warrant cases .................................................................................................................. 358
5. Remedies and sanctions ............................................................................................................................ 358
6. Interrogation of a juvenile witness in criminal and juvenile proceedings .................................................. 361
III. CONCLUSIONS ........................................................................ 362
Bibliography ......................................................................................... 364

Chapter 7.
Transversal Analysis of the Country Reports. General Patterns
Michele PANZAVOLTA and Dorris de VOCHT ............................... 369

1. Introduction ................................................................................. 369
I. SYSTEMS .......................................................... 372
1. All that punishes is of a criminal nature? .............................. 372
   1.1. Criminal proceedings versus educative or protective proceedings. 372
   1.2. Formal criminal nature versus substantive criminal nature .... 374
      1.2.1. Relationship between criminal and non-criminal proceedings .... 376
      1.2.2. Regular criminal proceedings versus diversion proceedings .......... 377
2. The two faces of the juvenile suspect: either juvenile or suspect? 380
   2.1. Focus on suspect or juvenile: procedural safeguards are mostly not juvenile related ............................................................... 380
   2.2. Being a juvenile does not affect the moment of interrogation .... 381
3. What is it that protects juveniles: people or rules? ..................... 382
   3.1. Presumption that the system will protect the juvenile ......... 382
   3.2. The more protective the role of the judge, the less need for legal rules ............................................................... 383
   3.3. Protection by people during interrogation not systematic ...... 383
   3.4. Protection by people does not always imply specialisation and training ............................................................... 383
4. The different manifestations of interrogation ............................ 384
   4.1. Formal legal definitions of the concept of interrogation .......... 384
   4.2. Wide variations in types of pre-trial interrogations .............. 385
      4.2.1. Different authorities ......................................................... 386
      4.2.2. Different goals ............................................................... 386
      4.2.3. Different proceedings .................................................... 387
   4.3. Wide variations may complicate the applicability of procedural safeguards ............................................................... 387
5. Who is a juvenile? ............................................................. 388
II. INTERROGATIONS ........................................... 389
1. Right to remain silent – just like an adult ............................... 389
   1.1. Scope and content generally the same as with adult ............. 389
   1.2. How information on the right to remain silent is provided for differs widely ............................................................... 390
   1.3. Lack of (youth-specific) rules on informing of and explaining the right to remain silent ............................................................... 390
   1.4. Detrimental consequences of invoking the right to remain silent 391
2. Assistance by adults: appropriate or not? .......................... 392
   2.1. Most important youth-specific safeguard but great variations .... 392
   2.2. The appropriate adult lacks a clear function ...................... 393
   2.3. Different ideas on which adult is (most) appropriate .......... 394
3. Right to legal assistance for juvenile suspects: necessity or possibility? 395
   3.1. Scope of the right to legal assistance ....................... 395
   3.2. Whether the right to legal assistance is mandatory ............ 396
   3.3. Whether the right to legal assistance is free of charge ...... 398
   3.4. Lack of rules on goal of legal assistance during interrogation . 398
   3.5. Limited obligations for defence lawyers to be specialised ..... 399
4. The need for specialisation and training ................................ 400
   4.1. Legal basis for specialisation and training ..................... 401
   4.2. Organisational separation versus training and preparation ... 401
   4.3. Emphasis on specialisation of (quasi-)judicial authorities .. 401
5. One size fits all? ......................................................... 402
   5.1. Uniform approach in legal framing of procedural safeguards .. 403
   5.2. No individual assessment in the context of interrogation .... 403
   5.3. No special consideration for extra-vulnerable juveniles ..... 404
6. A hole inside interrogation? ............................................ 405
   6.1. Lack of rules on how to conduct pre-trial interrogations ...... 405
   6.2. Audio or audio-visual recording as a possibility instead of a
        mandatory safeguard ......................................... 406
   6.3. Comparison with rules on interrogating adult suspects and
        juvenile witnesses ............................................. 407
7. The juvenile overrated? .................................................. 407
   7.1. Not too young to decide ........................................ 408
   7.2. Presumption of understanding ................................... 409
   7.2.1. Few rules geared toward proper understanding of rights . 410
   7.2.2. Few rules geared toward proper comprehension of
          proceedings ................................................. 411
   7.2.3. Lack of youth-specific rules on informing the juvenile
          about the case ............................................. 412
8. What defines the juvenile’s vulnerability? .............................. 413
   8.1. Unclear notion of vulnerability (during interrogation) ......... 414
   8.2. Different views on how vulnerability should be compensated
        for ............................................................ 414
   8.3. Vulnerability not apparently translated into procedural
        safeguards ...................................................... 415
III. CONCLUSIONS ............................................................ 416
Bibliography ............................................................... 416
Annex: Template Country Report. Young Suspects in Interrogations ...... 419
## LIST OF ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASBOs</td>
<td>Anti-Social Behaviour Orders</td>
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<td>Constitution of the Italian Republic</td>
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<td>Crown Prosecution Service</td>
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<td>Convention on the Rights of the Child</td>
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<td>CWC</td>
<td>Child Welfare Council</td>
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<td>C&amp;YP</td>
<td>Children and Young Persons Act</td>
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<td>DTO</td>
<td>Detention and Training Order</td>
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<td>EAW</td>
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<td>European Convention on Human Rights</td>
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<td>European Court of Human Rights</td>
</tr>
<tr>
<td>FME</td>
<td>forensic medical examiner</td>
</tr>
<tr>
<td>HR</td>
<td>Hoge Raad</td>
</tr>
<tr>
<td>JA</td>
<td>Juvenile Act</td>
</tr>
<tr>
<td>LASPO</td>
<td>Legal Aid Sentencing and Punishment of Offenders Act</td>
</tr>
<tr>
<td>NJ</td>
<td>Nederlandse Jurisprudentie</td>
</tr>
<tr>
<td>PACE</td>
<td>Police and Criminal Evidence Act</td>
</tr>
<tr>
<td>PNDs</td>
<td>Penalty Notices for Disorder</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>VOM</td>
<td>victim-offender mediation</td>
</tr>
<tr>
<td>YJA</td>
<td>Youth Justice Act</td>
</tr>
<tr>
<td>YOT</td>
<td>Youth Offending Team</td>
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<tr>
<td>YPA</td>
<td>Youth Protection Act</td>
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Claudia Cesari
Claudia Cesari is a Professor of Criminal Procedure at the University of Macerata Law School (Italy). She graduated magna cum laude in criminal procedure from the University of Bologna in 1991 and obtained her PhD in criminal procedure at the same institution in 1997. Cesari served as Director of the Department of Criminal Law and Procedure at Macerata between 2007 and 2013. She now acts as Vice Director of the Law Faculty. Cesari is also Coordinator of the Centre for Studies and Research into Juvenile Justice at Macerata. Cesari’s research interests include juvenile justice, rules of evidence, and diversion techniques. She teaches criminal procedure and juvenile criminal justice. Some of Cesari’s most relevant recent publications include L’irripetibilità sopravvenuta (1999) (on an exception to the hearsay rule) and Le clausole di irrilevanza del fatto nel sistema processuale penale (2005) (on facts that do not warrant prosecution). Cesari has both edited and authored recent publications of the Centre for Studies and Research into Juvenile Justice.

Jacqueline Hodgson
Jacqueline Hodgson is Professor of Law at the University of Warwick (United Kingdom). She holds an LLB and PhD and has researched and written on issues within French, English/Welsh and comparative criminal justice, on the role of the criminal defence lawyer, the right to silence, the process of investigation and prosecution, terrorism, miscarriages of justice and suspects’ rights. Much of her work draws upon her own externally funded empirical research and she held a British Academy/Leverhulme Senior Research Fellowship from 2009–2010. Key publications include Custodial Legal Advice and the Right to Silence (1993), Standing Accused (1994), Criminal Injustice (2000), French Criminal Justice (2005), The investigation and prosecution of terrorist offences in France (2006), Suspects in Europe (2007), The extent and impact of legal representation on applications to the Criminal Cases Review Commission (2009), and Inside Police Custody (2014). She has advised Parliamentary Select Committees and EU impact assessment studies, and her research has been relied on by the Special Immigration Appeals Commission and in European Arrest Warrant proceedings. She is an elected member of the JUSTICE Council and a Fellow of the Academy of Social Sciences. This current project on safeguards for juveniles complements her recently completed European Commission-funded project – an empirical comparative study of safeguards for suspects.
Vicky Kemp
Vicky Kemp, a Principal Research Fellow at the University of Nottingham (United Kingdom), is an experienced researcher having conducted extensive empirical studies into the criminal justice system. After having completed her doctorate at the University of Cambridge, which focused on youth justice reforms under the Crime and Disorder Act 1998, she joined the Legal Services Research Centre, an internationally recognised and influential leader in the field of access to justice research. In that role she managed a number of empirical studies, including a survey of people drawn into the criminal process and a study of youth courts, evaluating new innovative arrangements involving duty solicitors based in police stations, and was responsible for a large-scale study into the take-up of police station legal advice. Key publications include Transforming legal aid: Access to criminal defence services (2010), ‘Children, young people and requests for police station legal advice: 25 years on from PACE’ in Youth Justice (2011), Bridewell Legal Advice Study: adopting a ‘whole-systems’ approach to police station legal advice – Interim and Final Reports (2012 and 2013) and ‘PACE, performance targets and legal protections’ in Criminal Law Review (2014). She is a member of the International Legal Aid Group and the British Society of Criminology.

Justyna Kusztal
Justyna Kusztal (PhD) is employed as assistant professor in the Institute of Pedagogy of the Jagiellonian University in Kraków (Poland). She graduated in law and pedagogy with a specialisation in social rehabilitation at the Jagiellonian University. She obtained her PhD in 2006 in the field of pedagogy at the same institution. Her doctoral dissertation approached a comparative study of social rehabilitation systems of juvenile delinquents in Poland and Germany. She has worked in various types of research teams and is the author of approximately forty articles in the area of social prevention and rehabilitation and problems of juvenile delinquency from a Polish and an international perspective. Her interests are focused on European trends in social prevention of juvenile delinquency and criminal policy in this area.

Joachim Meese
Joachim Meese is a Doctor of law and has a Master’s degree in criminology. He is a Professor at the University of Antwerp (Belgium). Joachim Meese is the author of many academic publications. His doctoral thesis, De duur van het strafproces (Length of criminal proceedings, 2006), considers the concepts of the statutes of limitations and the right to be tried within a reasonable time. This book has become a standard work in Belgium. Joachim Meese is also a lawyer, admitted to the Bar of Ghent in 1999. As a lawyer, he is a managing partner at Van Steenbrugge & Partners. He regularly participates in seminars and conferences on criminal law and criminal procedure.
Biographies

Marc van Oosterhout
Marc van Oosterhout holds two degrees in law (criminal law and forensics) from Maastricht University (the Netherlands). His main research interests are in the fields of (European) criminal procedure and fundamental (suspects’) rights, police proceedings and interrogation. During the course of this research project, Marc van Oosterhout was a researcher at the Department of Criminal Law and Criminology at Maastricht University. Before that he had been appointed as a researcher and tutor at the same institution. Earlier he was involved in another European project studying rights of suspects in police detention during which he conducted fieldwork in the Netherlands and Scotland. Besides empirical research, he was involved in the daily operational tasks that are required in large-scale research projects. Due to his research and operational skills, Marc has conducted legal and empirical research in the Netherlands and Belgium and is part of the project management team. He has also been responsible for social media (project website, LinkedIn and Twitter account) during the project. At present, Marc van Oosterhout is a project manager at AMBER Alert Netherlands where he is responsible for further local embedding of AMBER Alert, organising and analysing an EU regional police cooperation pilot and various other projects.

Michele Panzavolta
Michele Panzavolta is Associate Professor of Criminal Law at the University of Leuven (Belgium) and part-time Assistant Professor at the University of Maastricht (the Netherlands), where he was a Marie-Curie Fellow for a research on intelligence. He graduated from the University of Bologna (Italy) and obtained his doctorate at the University of Urbino (Italy). He was a postdoctoral fellow at the University of Bologna and a visiting scholar at the University of Cambridge. He is a qualified attorney at the Bar of Bologna and has experience as a practicing criminal lawyer in Italy. He specialises in European and international criminal law and in comparative studies on criminal law and procedure. Besides juvenile criminal justice, his research interests are in intelligence-related topics (surveillance, intelligence analysis, relationship between police and judicial bodies and intelligence services, cybercrime, et cetera), financial crime and asset recovery and, more generally, the protection of individual rights in criminal matters.

Miet Vanderhallen
Miet Vanderhallen is an Assistant Professor of Criminology at Maastricht University (the Netherlands) and an Assistant Professor of Psychology and Law at Antwerp University (Belgium). She holds a degree and PhD in criminology (Catholic University of Leuven, Belgium). She has conducted extensive empirical studies on various aspects of investigative interviewing, such as rapport building, suspect interviewing, legal advice, training and supervision. Miet
Vanderhallen has published many (inter)national articles and book chapters on investigative interviewing. Recently, she has participated in several EU studies on interviewing suspects, including *Procedural rights of suspects in police detention in the EU: empirical investigation and promoting best practice* (JUST/2010/JPEN/AG/1578). In addition to her research activities, she is involved in interview training programs at various police academies.

**Dorris de Vocht**

Dorris de Vocht is an Assistant Professor in the Department of Criminal Law and Criminology at Maastricht University (the Netherlands). She holds a degree in law (with honors) and a PhD from the same institution. In 2009 she successfully defended her doctoral thesis on the right to legal assistance in post-communist Poland. She has a special interest in procedural safeguards for suspects and defendants especially from a comparative (ECHR as well as EU) perspective. After obtaining her doctorate, she has participated in several EU-funded comparative legal studies such as *EU Procedural Rights in Criminal Proceedings* (JSL/2008/D3/002). She coordinates and teaches various bachelors and masters courses in the field of criminal (procedural) law and is a regular author in various Dutch journals and commentaries, such as *Tekst and Commentaar Strafverordening* (C.P.M. Cleiren and J.F. Nijboer, eds.). Since 2014 she is also a deputy judge with the District Court of Limburg.

**Barbara Stańdo-Kawecka**

Barbara Stańdo-Kawecka is Professor of Law and Head of the Department of Penitentiary Law and Policy at the Faculty of Law, Jagiellonian University in Kraków (Poland). She graduated in special pedagogy and law from the Jagiellonian University. At the same institution she obtained her PhD and defended her habilitation thesis. Her main research interests are on criminal policy, juvenile law, prison systems and penitentiary policy. She took part in several international research projects concerning juvenile justice, restorative justice and prison systems. Her past publications include chapters on juvenile justice system in Poland (in *Juvenile Justice Systems in Europe: Current Situation and Reform Developments*, 2010) and long-term prisoners in Poland (in *Long-Term Imprisonment and Human Rights*, 2014).