

El desarrollo y consolidación del espacio de libertad, seguridad y justicia de la Unión Europea. La implementación del Programa de Estocolmo, by Víctor Luis Gutiérrez Castillo & Manuel López Jara (Madrid, Tecnos, 2016), 306 pp.

Despite having attracted a lot of attention from the academia during the last seven years, the study of the impact of the 2009 Stockholm Programme on the development of an Area of Freedom, Security and Justice in the EU has yet failed to shed light over some important aspects of this Programme. This new book is an interesting contribution that provides the legal profession with a rather exhaustive and systematic record of the relevant regulation in place to date. In their work, divided into five chapters that present us with an extensive description of the safeguards that articulate criminal procedure in EU law based on the Stockholm Programme, the authors advocate for a broader and deeper cooperation in criminal matters in the EU.

The protection of rights and freedom is the usual argument in liberal democratic systems for justifying the expansion of state power, in this case inter- or supra-state power. As the book reminds us, the ultimate goal of the Stockholm Programme is the effective implementation of an Area of Freedom, Security and Justice (AFSJ) in the EU in application of a renewed mandate contained in the Lisbon Treaty. In order to achieve that goal, the Programme sets out to advance some EU policies rather than others by doing which it defines in practice the political/legal scope and features of that Area. Not surprisingly, one of the policies most prominently singled out by the Programme to be developed and enhanced with the implementation of the AFSJ is the cooperation in matters of criminal justice, which focuses on the mutual recognition of judicial decisions and the approximation of national legislations. Yet improving mutual trust among the judicial authorities of EU Member States is still necessary for the effective implementation of the mutual recognition principle. Accordingly, the Treaty for the Functioning of the EU provides for the EU power to establish common minimum standards in the regulation of criminal proceedings in relation, for instance, to the safeguards protecting the suspect in police investigations as well as the defendant in judicial procedures.

In this respect, the authors deliver very detailed descriptions of basic concepts of criminal procedure in the introduction and chapter I of the book which can be very helpful for researchers in need of being acquainted with the matter. For instance, the authors include here a thoroughly descriptive account of the purposes and principles of the criminal procedure at large. Due process requirements and their implementation within the EU legal system are also the object of recapitulation. This includes an account of the historical evolution of the different legal systems of Member States and how mutual influence and their participation in the human rights system of the Council of Europe and its European Court of Human Rights have served to bring them closer to each other in terms of criminal procedure. Endorsing the Stockholm Programme Action Plan, however, the book supports the believe that, in spite of such similarities, these changes have not been enough and that deeper assimilation in terms of legislation will generally improve the standards of protection.

Chapter II offers an historical exposition of the first EU attempts to regulate safeguards in criminal

proceedings. The authors offer a detailed account of the 2001 *Green Paper on criminal law protection of the financial interests of the Community and the establishment of a European Prosecutor* and the 2003 *Green Paper on Criminal Proceedings*, focusing on the 2004 *Proposal for a Council framework decision on certain procedural rights in criminal proceedings*. In their view, these documents try to correct the shortcomings of previous legislation such as the 2002 *Council Framework Decision on the European arrest warrant and the surrender procedures between Member States*, which does not pay sufficient attention to the protection of the rights of the detainees. For the authors, one of the reasons why these attempts might have failed in the past was the lack of power of the EU before the conclusion of the Lisbon Treaty that gives the Union powers to be shared with Member States.

Chapter III is devoted to describe the legal and policy framework of the EU powers to regulate safeguards in criminal proceedings. The chapter includes the 2009 Stockholm Programme and the regulation of the matter in the founding treaties. In the final section of this chapter, the book singles out national policy of states, in connection with the reinforcement of the principle of subsidiarity in the Lisbon Treaty, as a major obstacle to the harmonization of legislation required by the legislative programme previously described. Chapter IV contains a commentary of EU legislation passed in order to implement the Action Plan such as Directives 2010/64/EU, 2012/13/EU, 2013/48/EU, 2014/41/EU, 2016/343/EU and 2016/800/EU. Chapter V offers a review of the procedural safeguards for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings as well as in relation to the European Investigation Order.

The book ends with a general assessment of the measures described in the previous chapters in terms of their suitability to achieve the goals set by the Stockholm Programme. In this final section, the authors stress the importance of Member State reluctance to develop this EU power which touches upon an aspect of state business considered essential to the dominant idea of sovereignty, the state's right to punish. This reluctance results, in view of the authors, in a too slow-paced implementation of the Programme which prevents the implementation of measures concerning, e.g., legal aid for suspects and accused persons or the lack of special procedural safeguards for vulnerable persons suspected or accused in criminal proceedings. These are interesting conclusions for the analysis of a topic so politically unstable that by the publication of this book the European Commission has published a few new Directive proposals and the Parliament and the Council have passed Directive 2016/1919, of 26 October 2016, on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings, which is part of the EU Council 2009 Action Plan.

On the whole, the book represents an interesting contribution to the academic body of literature dealing with this complex subject, its most interesting feature being the clear articulation of an in-depth description of EU legislation and its interaction with national legislation and the European human rights system in theory and practice. It is a useful, recommendable guide for those willing to get acquainted with this topic.

Juan J. GARCÍA BLESÁ
FernUniversität in Hagen