

SUMMARY

The aim of this dissertation will be to analyse the relationship between the principle of effectiveness of EU law and the right to effective judicial protection with regard to judicial cooperation in criminal matters. The standard of the right to effective judicial protection, established in national legal acts as well as developed in the rich case-law of the Court of Justice (CJ) and the European Court of Human Rights (ECtHR), will be characterized.

Particular emphasis will be placed on those EU laws, as well as the case-law of courts and tribunals interpreting it, in which the relationship between the institutions discussed in the present dissertation has been recognised. This relationship can be presented from two perspectives. The principle of the effectiveness of EU law requires Member States to ensure an appropriate standard of protection (i.e. already existing in European law), including the right to effective judicial protection. Nevertheless, it also sometimes constitutes an obstacle to the possibility of fulfilling this requirement. The first aspect is particularly apparent in cases where the CJ has interpreted directives relating to minimum procedural guarantees in criminal matters. The second aspect becomes evident in the course of the analysis of the CJ's rulings, in which it has interpreted the provisions of cooperation mechanisms such as for example the European Arrest Warrant (EAW) and the European Investigation Order (EIO).

As a consequence, the present dissertation will examine the situations in which the powers granted in EU legislation, as a result of their interpretation by the CJ, have proved to be irrelevant with regard to those protected under the European Convention on Human Rights (ECHR). Therefore, legal acts regulating judicial cooperation in criminal matters, in the application of which the relations in question have occurred, will be subject to detailed interpretation. As will be shown, in situations where the principle of effectiveness was an obstacle to the realisation of the relevant standard of the right to effective judicial protection, the very provisions of the Charter of Fundamental Rights (CFR), which allow to claim that the highest standard of protection should be applied in a given case, have been infringed.

The interpretation of the detailed provisions of legal acts and rulings concerning the title cooperation will be based primarily on Articles 5, 6 and 13 of the ECHR and Articles 47 and 48 of the CFR, and sometimes on provisions arising from national constitutions which form a common constitutional tradition of Member States. In the light of these provisions, this should make it possible to answer the question whether the CJ and certain courts and tribunals have maintained the required standard of protection.

The dissertation has therefore been divided into five chapters, the first two of which are of an introductory nature, followed by those analysing the specific rights arising from the right to effective judicial protection. The first chapter thus concerns issues relating to the functioning of human rights protection regimes in European law, the characteristics and relationship of the title institutions. The next chapter will characterise the legal acts forming judicial cooperation in criminal matters, the provisions of which will be subject to further consideration. Furthermore, specific rights such as the right of defence, the right to an effective remedy and the right to an independent and impartial tribunal will be analysed. The rights of suspects or accused persons in the light of the rights of victims of crime will also be examined. Finally, the dissertation will focus on the analysis of legal acts which show that the failure to comply with a request for the transfer of a person under the EAW procedure results in the practical impossibility of holding them liable in another country.