

Closing conference – Intersections of the Application of the European Arrest Warrant and the protection of fundamental Rights

Brussels, 17-18 October 2017

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Intersections of the application of the European Arrest Warrant and the protection of fundamental rights

Seminar Venue

Scandic Hotel Grand Place, Rue d'Arenberg 18, 1000 Brussels

Introduction

Description: The European Arrest Warrant (EAW) is the seminal instrument in the field of EU judicial cooperation in criminal matters. It is widely used, and has proven to be an efficient tool in accelerating the execution of warrants and surrender procedures in cross border criminal cases within the EU. At the same time the EAW still poses a number of issues – mostly related to fundamental rights protection - that Member States find difficult to accommodate in their respective legal systems. It is in this context that the seminar is willing to map out the operational success of the EAW and discuss the concerns present in the application of the EAW.

Objectives: The closing conference will provide an overview of the respective national experiences in settling fundamental rights issues in issuing and executing European Arrest Warrants. The added value of the conference is to look at the issues covered by the series of seminars from the national perspective. In this way, all the major themes related the issuing and execution of the European Arrest Warrant, which were discussed from the common European perspective, will be revisited from the particular national point of view. Through highlighting problems and dilemmas surfacing at the national level, an attempt will be made to synthesize the outcome and see how the solutions are offered at the European level wither in the form of harmonized legislation or through the interpretation of such instruments by the Court of Justice of the European Union are received by the national judicial authorities.

The conference style of the event will allow speakers to make short interventions followed by discussion of the panel members facilitated by the EIPA expert. The program will cover the thematic issues regarding the administration of the European Arrest Warrant, which are especially prone to raise fundamental rights concerns.



Experts (invited)

Mikolaj Pietrzak, Criminal defence lawyer, Pietrzak and Sidor, Warsaw, member of the team of lawyers in the Abd al-Rahim al-Nashiri case, chairman of the Human Rights Committee of the Polish Bar Council (Pietrzak@PietrzakSidor.pl)

Ignacio de Lucas, Public prosecutor, Spanish Antidrug Prosecution Office, former national expert in the Criminal Justice Unit of DG JLS in the European Commission (ignacio-de-lucas@hotmail.com)

Pascal Gastineau, Vice-President in charge of investigation, Lille Interregional Specialised Court (pascal.gastineau@justice.fr)

Nicola Canestrini, Criminal defence lawyer, Studio Legal Canestrini, Rovereto. member of the Legal Experts Advisory Panel (LEAP) of Fair Trials International, and the EU Criminal Law Commission of the Italian Union of Criminal Chambers. (studio@canestrinilex.it)

Roland Kempfle, Public prosecutor, State Attorney General Ingolstadt (roland.kempfle@sta-in.bayern.de)

EIPA Luxembourg - European Centre for Judges and Lawyers

Petra Jeney, Conference facilitator and Senior Lecturer (p.jeney@eipa.eu)

Christiane Lamesch, Programme Organiser and Contract manager, c.lamesch@eipa.eu

DRAFT Programme

TUESDAY 17 OCTOBER 2017

09.00 **Welcome and mutual introduction**

09.15 **The impact of fundamental rights on EU criminal law**

The session will provide an overview of the repercussions of the fundamental rights and jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights on the shaping of EU criminal law. The session will also consider the consequences thus triggered in Member States' legislation and criminal policies.

Panellists: Mikolaj Pietrzak, Ignacio De Lucas, Pascal Gastineau, Nicola Canestrini, Roland Kempfle

10.45 Coffee break

11.15 **The principle of proportionality in issuing a European Arrest Warrant?**

Proportionality assessment at the issuing authority. Considering the alternatives to the EAW i.e.: MLA, financial penalties FD, transfer of prisoners, pre-trial supervision, EIO. When to issue an EAW? Issuance of European Arrest Warrants in cases that are not prosecution/trial ready. How to fill out the out the EAW form?

Panellists: Mikolaj Pietrzak, Ignacio De Lucas, Pascal Gastineau, Nicola Canestrini, Roland Kempfle



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- 12.45 Lunch
- 14.15 **Grounds to refuse the execution of a European Arrest Warrant**
Explanation, case law and national implementation on mandatory and optional grounds of refusal of enforcing a EAW as interpreted by the Court of Justice of the European Union and applied by the national courts in the Member States
Panellists: Mikolaj Pietrzak, Ignacio De Lucas, Pascal Gastineau, Nicola Canestrini, Roland Kempfle
- 15.45 Coffee break
- 16.15 **How the existence of a risk of fundamental rights violation affect the execution of the European Arrest Warrant?**
How the absence of an explicit ground for refusal based on the infringement or risk of infringement of fundamental rights and the recently developing case law of the CJEU (C-659/15 PPU Aranyosi) allowing the postponement of the EAWs in very specific circumstances of such a risk affect practice.
Panellists: Mikolaj Pietrzak, Ignacio De Lucas, Pascal Gastineau, Nicola Canestrini, Roland Kempfle
- 18.00 **End of Day 1**

WEDNESDAY 18 OCTOBER 2017

- 09.00 **European legal and enforcement mechanisms in relation to incarceration**
The session will discuss the possible avenues that European level instruments could take in standard setting with regard to imprisonment and prison conditions.
Panellists : Mikolaj Pietrzak, Ignacio De Lucas, Pascal Gastineau, Nicola Canestrini, Roland Kempfle
- 10.30 Coffee break
- 11.00 **Future of the European Arrest Warrant**
The session will examine the interplay between the EU and ECHR human protection regimes in the context of the EAW, where particular attention on the interplay between these two regimes.
Panelists: Mikolaj Pietrzak, Ignacio De Lucas, Pascal Gastineau, Nicola Canestrini, Roland Kempfle
- 12.30 **END OF SEMINAR**

