

Practical aspects of issuing and executing a European Arrest Warrant

Lisbon, 28 February – 1 March 2017

Grant Agreement JUST/2015/JTRA/AG/EJTR/8689

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

Seminar Venue

To be determined

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 proved 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 purpose of the seminar is two-fold: firstly, to provide participants with information on the use, domestic application and evaluation of the EAW. Emphasis will be made on how to issue an EAW, how the various grounds of refusals are understood by national judiciaries and what are the issues that defence lawyers may want to look at. The practical administration of EAWs will be complemented however with the discussion of constitutional and fundamental rights issues that posed difficulties in applying the instrument and gave rise to litigation before both the Court of Justice of the European Union and the national courts.

Experts (invited)

Carla Botelho, Judge at the Appeal Court in Lisbon, carlabote@gmail.com

Vania Costa Ramos, Criminal Defence Lawyer, Carlos Pinto de Abreu e Associados, Lisbon, vaniacostaramos@carlospintodeabreu.com

Monika Skinder-Pik, Prosecutor at the Gdansk Circuit Public Prosecutor's Office, mkindler@poczta.fm

Ralph Bunche, Regional Director – Europe, Fair Trials, office@fairtrials.net

EIPA Luxembourg - European Centre for Judges and Lawyers

Petra Jeney, Senior Lecturer, p.jeney@eipa.eu

Christiane Lamesch, Programme Organiser, c.lamesch@eipa.eu

DRAFT Programme

TUESDAY 28 FEBRUARY 2017

09.00 **Welcome and mutual introduction**

09.15 **The European Arrest Warrant – the leading mutual recognition instrument**

The context: The principle of mutual recognition in criminal matters and its implementation. General introduction to the instrument and statistical information about its use in EU Member States. (*C-303/05 Advocaten voor de Wereld; C-296/08 PPU, Santesteban Goicoechea*), *EAW and national implementation, Constitutional challenges to the EAW in selected Member States (DE, PL, IT)*

Petra Jeney

10.15 Discussion

10.30 Coffee break

11.00 **When and how to issue 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?

Carla Botelho

12.15 Discussion

12.30 Lunch

13.45 **Case study 1**

The case study will be presented from the point of view of a judge and a defence attorney. The EAW related aspects of the case will be discussed with the participants.

Carla Botelho, Vania Costa Ramos

14.45 Discussion

15.00 Coffee break

15.30 **Practical issues in administering European Arrest Warrants**

Problems related to the SIS, multiple requests relating to the same person, transmission of a translated EAW, additional information, and accessory surrender

Monika Skinder

16.30 **Case study 2**

The case study will be presented from the point of view of a judge and a defence attorney. The EAW related aspects of the case will be discussed with the participants.

Monika Skinder, Vania Costa Ramos

17.30 **End of Day 1**

WEDNESDAY 1 MARCH 2017

09.00 **Grounds to refuse the execution of a European Arrest Warrant I.**

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 (*Principle of double criminality, ne bis in idem (C-187/01 and C-385/01 Gözütok & Brügge, C-436/04 Van Esbroeck, C-150/05, Van Straaten, C-491/07, Turanský, C-261/09 Mantello), optional non-execution C-66/08 Kozłowski, C-123/08 Wolzenburg, C-42/11 Lopes Da Silva Jorge, 188/16 Dworzecki*)

Petra Jeney

10.15 Discussion

10.30 Coffee break

11.00 **Grounds to refuse the execution of a European Arrest Warrant II.**

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 *In absentia (C-306/09 I.B., C-399/11 Melloni) absence of an explicit ground for refusal based on the infringement or risk of infringement of fundamental rights (C-396/11 Radu), speciality rule (C-388/08 PPU Leymann & Pustovarov, 404/15 and C-659/15 PPU Aranyosi)*

Petra Jeney

12.15 Discussion

12.30 Lunch

13.45 **Workshop**

A hypothetical case will be presented to the participants where the interpretation and application of the EAW are the central issues. Participants will be encouraged to identify the relevant factual and legal issues and to answer practical questions in relation to the EAW.

Ralph Bunche

14.45 Discussion

15.00 Coffee break

15.30 **Future of the European Arrest Warrant**

Trends and statistics. Possibilities of amending the EAW in the medium term.

Ralph Bunche

16.30 Discussion

16.45 **Evaluation**

17.00 **END OF SEMINAR**

