EUROPEAN ACTORS AND THE EFFECTIVENESS OF THE EUROPEAN ARREST WARRANT: THE ROLE OF EUROJUST IN JUDICIAL COOPERATION IN CRIMINAL MATTERS

“EJTN Seminar: International Judicial Cooperation in Criminal Matters in Practice: EAW and MLA simulations”

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I. Eurojust

What is Eurojust?
- Eurojust is a judicial cooperation body created to help provide safety within an area of freedom, security and justice;
- A permanent body of judicial cooperation composed of 28 EU National Members – prosecutors and/or judges;
- A body of the EU with legal personality - The judicial cooperation unit of the European Union;
- Main aim: “To deal more effectively with serious cross-border crime particularly when it is organised, and involves two or more Member States”;
- Based in The Hague, the Netherlands;
Contact details:

- Eurojust
- Maanweg 174
- 2516 The Hague
- The Netherlands

- Internet page: www.eurojust.europa.eu
Aims / Objectives

• To stimulate and improve the coordination of investigations between the competent authorities of the Member States;

• To improve cooperation between the competent authorities of the MS, in particular by facilitating the execution of international mutual legal assistance requests & EAWs;

• To support the competent authorities of the Member States in order to render their investigations more effective;
Competences

- Investigations concerning two or more Member States;

- Involvement is also possible in investigations concerning a Member State and a non-MS (cooperation agreement / essential interest);

- Eurojust has the authority to deal with a wide range of criminal offences, including terrorism, trafficking in human beings and drugs, serious fraud, etc.;

- The types of crimes and the offences in respect of which Europol is at all times competent to act;

- Any other types of offences at the request of a competent authority of a MS;
Working at different levels

**Level 1:**
- Plenary Meeting of all 28 National members + Liaison magistrates;
- The College of Eurojust holds plenary meetings every week;

**Level 2:**
- Only these National members / National desks involved into a case;

**Level 3:**
- Co-ordination meetings;
- Law enforcement officers, investigators & prosecutors from different Member States dealing with a case;
Powers

Eurojust has the power to request competent authorities of MS:

• To investigate or prosecute specific acts;

• To accept that one country is better placed to prosecute than another;

• To co-ordinate with one another;

• To set up a Joint Investigation Team;

• To provide Eurojust with any information necessary to carry out its tasks;
Other Areas of Added Value

- Facilitate mutual legal assistance;
- Resolution of conflicts of jurisdiction;
- Advise on competing EAWs;
- Assist in the establishment of JITs;
- Organize and facilitate strategic meetings;
- Provide legal advice and support to law enforcement officers, investigators & prosecutors dealing with cross-border crime;
Case evolution

Cases 2002 - 2013

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II. EUROPEAN ARREST WARRANT (EAW)


- As foreseen in the EAW Framework decision, Eurojust is competent to act in two situations:
  1. In case of multiple request/Art.16/ and
  2. When, in exceptional situation, a Member state cannot observe the time-limits provided for in Article 17
III. EUROPEAN ARREST WARRANT (EAW)

Grounds for refusal

1. MANDATORY GROUNTS FOR NON-EXECUTON - Article 3 of the Framework decision provides mandatory grounds for the non-execution of the EAW:
   - amnesty;
   - ne bis in idem;
   - the minor age of the requested person;

2. OPTINAL GROUNDS FOR NON-EXECUTION - Article 4:
   - when the criminal offence is not mentioned in the list in Article 2 of the Framework decision and this act does not constitute an offence under the laws of the surrendering Member State;
   - when the requested person is being prosecuted for the same act in the issuing Member state as in the executing member state;
   - when the executing member State has jurisdiction and the imposition of punishment is statute-barred according to the law of the executing Member state;
   - when the executing judicial authority is informed that the requested person has been finally convicted by a third State;
   - in cases of surrendering one's own nationals or residents, where the executing MS undertakes to execute the sentence or detention order under its domestic law;
   - when the EAW relates to offences which have been committed on the territory of the executing MS or outside the territory of the issuing MS and the law of executing MS does not allow prosecution when the offence would have been committed outside its territory.

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IV. EAW AND THE PRINCIPLE NE BIS IN IDEM

- ne bis in idem principle expresses the notion that no one should be criminally prosecuted more than once for the same offence

- International Covenant on Civil and Political Rights, Article 14, paragraph 7

- Article 4, paragraph 1 of the 1984 Seventh Protocol to the European Convention on Human Rights

- Articles 3 and 4 EAW Framework decision
  - Court decisions
  - Decisions of prosecutors?

  - ne bis in idem and conflicts of jurisdiction
V. EAW cases at EUROJUST

- 2013: 208 Improve Execution, 6 Article 16 FD, 5 Article 17 FD
- 2012: 252 Improve Execution, 6 Article 16 FD, 3 Article 17 FD
- 2011: 260 Improve Execution, 4 Article 16 FD, 2 Article 17 FD
- 2010: 281 Improve Execution, 3 Article 16 FD, 3 Article 17 FD
EAW cases at EUROJUST per crime type

* Cases may comprise more than one crime type.
Bulgaria as a requesting country in EAW cases

*2014/CAU-0163/TG*
Bulgaria as a requested country in EAW cases
Thank you very much for your attention!

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