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SEMI-FINAL A

**INTERNATIONAL COOPERATION IN
CRIMINAL MATTERS**

LEGAL STEPS TOWARDS SUPERIOR CRIMINAL
COOPERATION, WITH SPECIAL REGARD TO THE EUROPEAN
EVIDENCE WARRANT



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ACRONYM OR ABBREVIATION	MEANING
EAW	European Arrest Warrant
EC	European Community
COE	Council of Europe
ECMA	Council of Europe 1959 Convention on Mutual Assistance in Criminal Matters
EEW	European Evidence Warrant
EEW-decision	Council Framework Decision 2008/978/JHA of 18 th of December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters
EIO	European Investigation Order
EJN	European Judicial Network
EP	European Parliament
EPP	European Public Prosecutor
EPPO	European Public Prosecutors Office
EU	European Union
EUMLA	EU Convention of 29 th of May 2000 on Mutual Assistance in Criminal Matters
FD	Framework Decision
JIT	joint investigation team
LT	Lisbon Treaty
MLA	Mutual legal assistance
MP	Member of Parliament
MS	Member State
NYC	New York City
SIC	Schengen Implementation Convention
UK	United Kingdom

1. Introduction

One of the objectives of the EU is to maintain and develop an area of freedom, security and justice, notably by facilitating and accelerating judicial cooperation in criminal matters between MSs. Facing the challenges of cross-border crimes, the administration of justice must not be impeded by differences between MSs' judicial authorities and the lack of mutual recognition of judicial decisions¹. Recognizing the growing role of European criminal justice, which has been increasingly strengthened by the LT, it is particularly important to foster effective cooperation in obtaining evidence in criminal matters. A number of instruments are already in force, providing for mechanisms for a MS to seek the collection of admissible evidence in criminal matters in a cross-border context. Closer cooperation in this field is key to the effectiveness of criminal investigations and proceedings in the EU, and therefore further action to promote such cooperation is necessary.² For this reason, our paper addresses the topic of the EEW, a special, mutual recognition-based instrument.

In the beginning of our career, we are seeking to learn more and more about European criminal justice; therefore last, but not least, this topic has a great importance for us as trainees, future prosecutors in our everyday work and practice as well.

In the following pages we would like to introduce how the EEW can make a difference in practice, particularly in the field of evidence exchange, and obtaining evidence – such as objects, documents or data – for use in criminal proceedings within the MSs of the EU. To be more precise, we will first introduce the background of the EEW, and then present the main features of the legal rules. At the same time, the weakness of the regulation will be exposed. We will begin by introducing a special case, which is not only an iconic example of a dirty international trade that is destroying the world's cultural heritage, but is also one that presents the obstacles and difficulties of gathering and seizing foreign evidence. After presenting the mentioned legal provisions and instruments, we will return to the question of the special case, and attempt to offer a possible solution to conclude the argument about it.

Many people think that a connection exists between the EEW and the EPP; therefore we also examined this question and present our observations and opinion.

2. The case

It is well known in Hungary, that a soldier in the Hungarian Army, *private József Sümegh*³, had found an antique silver treasure buried deep in the ground in the late 1970's in the town of Polgárdi, near Lake Balaton in Hungary. Later on, his dead body was found in an abandoned wine cellar on 17th of December 1980, also near Lake Balaton, only hours before the scheduled time of a huge

blasting in the nearby mine, which would have destroyed the abandoned wine cellar too. The death was first described as a suicide, but later it was termed a murder⁴.

The mysterious treasure is a hoard of silver objects from the late Roman Empire, which is nowadays known as the *Seuso Treasure*. It gets its name from a dedication carved into one of the most spectacular pieces in the collection, a large silver platter. *Seuso* was a very rich man, who lived in



the Roman Empire at the end of the 4th century, but how he got his wealth and what he did during his life are lost in the mists of time⁵.

Documentation from the Lebanese Embassy in Switzerland stated that the treasure had been found in the Tyre and Sidon regions of Lebanon. On that basis, the collection was sold by a Lebanese-born art dealer, called Halim Korban to Sir Peter Wilson, the former chairman of Sotheby's. In 1983, he wanted to sell the treasure to the *Paul Getty Museum* in Los Angeles. Mr. János György Szilágyi, a Hungarian expert in Roman archaeology was visiting one of his old friends - who was actually the head of the antique department of the Getty Museum. He was therefore able to see the treasure, and he found the word '*Pelso*' on a plate, which means 'Lake Balaton' in Latin. The Lebanese export licenses had been proved to be falsified, which also led the Museum lose its interest in buying the treasure.

When the deal fell through, Sir Wilson persuaded *Lord Northampton* to invest in the venture, at which time the 14-piece collection became entirely owned by Lord Northampton. He exhibited the treasure in NYC in 1990, when Hungary obtained an injunction barring the treasure's removal from NYC. The claim was rejected by the Appellate Division of New York's State Supreme Court and Lord Northampton was able to return the treasure to London. The court also concluded that the Lord had played no part in the theft of the treasure⁶, and in fact the Lord sued his solicitors for damages in relation to advice purchasing the silver treasure with such unknown origin.

Hungarian experts did not really get the chance to study the collection in details during the trial, they only received some samples taken off some pieces of the treasure. However, comparisons of soil samples from the Lake Balaton region and residues found on the Seuso treasure proved to be the same, but the results of this comparison and other analysis could not be introduced in court, because the deadline given by the judge to execute the different analysis and examinations was exceedingly short, not to mention the travelling time from NYC to Hungary and back. Actually, the Hungarian analysts and experts told the judge, that the analysis could not be carried out by the given deadline regard to the lack of time, but the judge did not modified the deadline.

It is notable, that a large villa estate located around Lake Balaton and a silver table, called the '*quadripus*' had been found in Hungary and Seuso may have been the proprietor of them. In 1993, a

prisoner, named *József Lelkes* stated, that his old friend, József Sümegeh had found the treasure. In addition, three other people, who knew about the treasure died in mysterious circumstances too⁷.

The Hungarian police interviewed several witnesses who knew József Sümegeh. They all stated, that József Sümegeh had told them about finding a buried, silver treasure near Lake Balaton. He also had a fiancé he wanted to marry, and they were saving for their own house, therefore his death could not be a suicide. Witnesses also stated that József Sümegeh had started to sell some pieces of the collection to a Lebanese dealer not long before his death. Experts and also these witnesses state that the collection consists of about 200 pieces, not just 14⁸. Unfortunately, the above mentioned witnesses could not be heard at the NYC court, as the judge reasoned that the murder case was not linked to the civil case about the ownership of the treasure.

Anyway we believe that the treasure must have been looted from Hungary and the Lord is in possession of a stolen property. Since the 1990's Hungary has been seeking the return of the Seuso treasure, even referring to the mentioned criminal proceedings. Actually, several initiations also have been launched in Hungary⁹ in the past few years in order to examine the pieces of the treasure by professional experts and authorities to settle the argument about it. As Hungary is such a fresh MS of the EU – joining the union only in 2004 – in the early 1990's only the slow and inefficient legal assistance was for Hungary's service to obtain such evidence from the UK. This type of request is carried out through diplomatic channels, and a country like Hungary, which used to be a part of the communist regime until the late 1980's, and without having any practice in diplomatic cases, could not initiate such a procedure and issue any requests towards the UK. We also should point out, that Hungary had become a member of the COE only in November 1990¹⁰; therefore the ECMA was ratified by Hungary in 1994¹¹.

Also as the legal systems in the UK are very different from the legal systems of many other countries, the procedures for obtaining evidence from the UK under MLA are unique. MLA can be provided on the basis of comity (good relations) and reciprocity between countries¹². It is therefore not essential to be a party to any particular international convention in order to give or request/receive MLA in the UK.

You may wonder, why we think that the EEW may change anything about this case, especially, if different analysis, examinations have already been done. The answer arises from some quite suspicious and unexplainable circumstances, such as that the interpreter at the NYC court could not speak Hungarian correctly, and therefore several mistranslations occurred; and the aforementioned affair with the deadline given for the experts and analysts.

In this paper, we tried to think through, if the EEW could help solving the above mentioned situation, and if the answer is yes, then how it could be managed.

3. Background

Currently, the transmission of criminal evidence between MSs of the EU is governed by a number of different legal instruments. First of all, the Council of Europe established a *Convention on Mutual Assistance in Criminal Matters* in 1959¹³. The EU has adopted a number of different measures building upon the Council of Europe Convention and its Protocols, namely: the *Schengen Convention*^{14,15}; the *EU Convention of 29th May 2000 on Mutual Assistance in Criminal Matters*¹⁶, which entered into force in 2005¹⁷. There is a 2003 FD concerning freezing orders in relation to assets or evidence¹⁸: a freezing measure under this FD is a preparatory step pending the subsequent transfer of evidence. We should also note the 1990 *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime*, and the Council FD of 13th June 2002 on the EAW and the surrender procedures between MSs.

4. The importance of the principle of mutual recognition

The EEW is based on the *principle of mutual recognition* on a high level of confidence between MSs. Before elaborating the EEW in details, it is essential to investigate the bases of concerning legal rules. On the ground of their legal nature, norms and conventions regulating the cooperation between MSs can be divided into two categories. In the initial period of cooperation, conventions based on international public laws were created alone. It is a characteristic of these conventions that they regulate cooperation between the states, on the basis of international public law, and not between authorities, and requests are sent to the central authority of the contracting state, thus, this is of capital importance in connection with request execution. In case of requests and their execution, everything has to be done in a diplomatic way, consequently, the principle of indirectness predominates. Norms based on recognition, which appear in EU law in the previous Third Pillar law, indicate the development of criminal cooperation.

This means a higher level of cooperation as the judicial authorities of MSs contact one another directly and execute the requests often by simply filling in a form. The latter form of cooperation is based already on the principle of mutual recognition, which is beginning to replace the principle of MLA this way.

The legally binding EU laws of record of verification concerning criminal cases can be listed into two categories. On the one hand, there are norms which are grounded on the principle of MLA and thus, they are similar to the conventions based on international public laws, with regard to the considerations mentioned above. This category includes, first of all, the ECMA and its Protocols and the SIC¹⁹. On the other hand, there are also norms which are based on the principle of mutual recognition, for example, the EAW and the surrender procedures between MSs²⁰, or the EEW²¹, which will be discussed below.

With regard to the principle of mutual recognition, a decision made by a judicial authority of a MS (which is of course legally binding and executable according to the law of the particular state), is recognised in another MS without any procedural act, thus it is valid and executable as well. Consequently, the principle of mutual recognition is much faster and more effective than the obsolete principle of MLA, which will hopefully be replaced by the former one for good.

The EU has set itself the objective of maintaining and developing an area of freedom, security and justice. Within its framework, it was first the 33rd point of *Tampere Conclusions* of the European Council in 1999²² that articulated that the principle of mutual recognition should become the cornerstone of judicial cooperation in both civil and criminal matters within the Union.²³ After that, Hague Programme²⁴ treats the creation of the EEW as a crucial issue.

5. The major provisions of the EEW

In line with the Tampere Conclusions, the proposal for the Council FD on the transmission of evidence was published by the Commission on the 14th of November 2003. The free movement of evidence is realized in the EU with the FD, which was adopted in 2008.

The structure of the warrant's regulation follows basically the structure of the EAW. The point of the warrant is providing *quicker and more effective* judicial cooperation in criminal matters by a single, fast and effective mechanism for obtaining evidence and transferring it to the issuing MS. Assistance in collecting evidence is one of its purposes. This form of assistance, which is already based on the principle of mutual recognition, can be much more efficient and quicker than that in the case of slow procedures still regulated by the frames of MLA. There is no need to use the diplomatic route in the case of requests, the transmission and takeover of evidence, as the principle of directness predominates in the present FD. The form necessary for issuing EEW can be found in the annex of the FD. The form is very simple and obvious; therefore it is easy to fill it, even if the issuing authority is not an expert in the executing State's official language. The form must be sent directly to the competent authority of the executing state. EJN could give assistance and information to MSs to find the competent authority of the executing state.

The essential advantage and obvious aim of this legal instrument based on the requirement of mutual recognition, is that it can regulate areas which have not been regulated by international law traditions and reciprocity so far or which have not been regulated at all with regard to the fact that previously there would not have been a chance for e. g. executing a search or seizure in the area of the requested state in a citizen's house on the basis of either European or international conventions.

The warrant uses the word '*evidence*', which can imply evidence in a narrower sense too than the one that is regulated by the MSs' criminal procedure laws.²⁵ Article 2 of the FD includes definitions of the terms; however, these are only procedural law terms. Even the list of these procedural law terms is incomplete, as except for search or seizure it does not define any compulsory measures

referring to the record of verification or procedural law coercions. In fact the FD does not refer to 'evidence' except in its name.

The principle of mutual recognition is based on a *high level of confidence* between MSs, though it does not include the maintenance of human rights, in contrast with the EAW.²⁶ In spite of this fact, several of its provisions guarantee the utmost predominance of human rights. The EEW should therefore be issued only by judges, investigating magistrates, prosecutors and certain other judicial authorities. The FD does not cover police, customs, cross-border law enforcement and coordinational cooperation, which are regulated by base treaties, for example, the SIC. It is not clear whether a defendant or his defence attorney could apply to a competent judicial authority asking to issue a EEW. If not, the principle of equality of arms would be clearly violated

It is also a guaranteed regulation of the FD's requirement that an EEW can be issued only where obtaining the objects, documents or data sought is necessary and proportionate for the purpose of the criminal or other proceedings concerned. In addition, an EEW should be issued only where the objects, document and data concerned could be obtained under the national law of the issuing state in a comparable case. The responsibility for ensuring compliance with these conditions should lie with the issuing authority. For the sake of obtaining objects, documents or data sought, the executing authority should use the least intrusive means when executing the request in connection with the person concerned. The provision that the issuing state obligates the executing authority to follow specified formalities and procedures in respect of legal or administrative processes is intended to eliminate the difference of procedural laws.²⁷

A further condition of the issuing of the EEW is that the objects, documents and data can probably be accepted as evidence in proceedings to which they were required. By this, the legislator has tried to prevent the authorities of MS from obtaining evidence by this warrant through the avoidance of inside instructions and norms referring to the use of evidence.

6. Types of evidence

The EEW can be used for obtaining evidence that *already exists, directly available and accessible*.

If it would be necessary to carry out a search or seizure for the execution of the EEW, it shall include any measures under criminal procedure as a result of which a legal or natural person is required, under legal compulsion, to provide or participate in providing objects, documents or data and which, if not complied with, may be enforceable without the consent of such a person or it may result in a sanction. Thus, the evidence can be in the possession of certain defined authorities as well, or in the possession of people or legal entities.

Article 4 of the FD defines the scope of the EEW, however the EEW is not permitted to be used to initiate the following actions: conduct interviews, take statements or initiate other types of hearings involving suspects, witnesses, experts or any other party, including telephone references and video

conferences. Carry out bodily examinations or obtain bodily material or biometric data directly from the body of any person, including DNA samples or fingerprints, whether from hair, mouth or blood of a person. Obtain information in real time such as through the interception of communications, covert surveillance or monitoring of bank accounts. Obtain communications data retained by providers of a publicly available electronic communications service or a public communications network. Conduct analysis of existing objects, documents or data, e.g. it could not be used to require the commissioning of an expert's report. Although, it is possible and allowed to obtain existing records of intercepted communications, surveillances, and interviews with suspects, and results of DNA tests etc. A copy of criminal records can be asked for too.

Based on the above mentioned facts, we can state that a request for obtaining evidence refers only to evidence which is already available in the executing state and which has already been recorded and prepared by the authorities of the executing state.

7. Procedure and execution

An EEW can be used for obtaining of objects, *documents and data* only in criminal procedures for which an evidence warrant can be issued.

The EEW is transmitted by the issuing authority directly to the competent authority for execution. The issuing authority has to fill a single, standardized document and translate it into an official language of the executing MS. The executing authority shall take possession of the objects, documents or data without delay and, no later than 60 days after the receipt of the EEW by the competent executing authority.²⁸

The executing state is bound to execute the request without further formalities, however, the FD defines a few procedural underlying principles which the executing state is obliged to fulfil during the request, thus, it is bound to treat the concerned person with tolerance, and in case of a natural person, the transmission of the requested document should not infringe the prohibition of self incrimination.

The executing state is bound to execute the request according to the national proceedings law. On the basis of this, the executing MS is bound to restrict its own procedure law even if this restriction is not known by the law of the requesting state.

8. Refusal of recognition and execution, the principle of double incrimination

The FD considerably restricts the possibility of the warrant's refusal of recognition for the MS. Any decision to refuse recognition or execution shall be taken as soon as possible and, no later than 30 days after the receipt of the EEW by the competent executing authority.

Instead of elaborating the grounds for refusal, it is worth writing about the connection between the principle of mutual recognition and double incrimination as a ground for refusal. It implies the

gradual liquidation of the principle of double incrimination that in case of emphasized crimes the requirement of double incrimination cannot be applied on the basis of the provision of the FD, except for cases of a necessary search or seizure. With regard to this, the executing state is bound to fulfil the request in case of emphasized crimes even if the crime committed does not count as a crime in the executing state. However, regarding that the annex lists crimes such as murder, terrorism, human trafficking, etc.²⁹, such a case can be hardly imagined.

Despite this fact, it raises a problem to define the crimes in the list, as the FD does not do it, and there is no existent unified European criminal code. Thus, when defining a crime, the MS has to appeal to its own criminal substantive law. Therefore, it can happen that a crime does not exist by the law of the executing state. By taking it into account, it would have been better to define certain emphasized crimes (even on several pages if necessary) and explain the state of facts.

On the basis of the principle of mutual recognition, as a possible solution to this problem, MSs are bound to fulfil the requests issued by the judicial authorities of other MSs.³⁰ Consequently, while in case of procedural law it is the law of the executing state that is authoritative, in case of substantive law the proceedings have to be done according to the law of the issuing state.

9. Implementation and its difficulties

Concerning the implementation of the FD, by the *19th January 2011*, MSs shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under the EEW-decision. However, the implementation is not so smooth. There are several difficulties which are hindering implementation and comprehensive application among MSs, a few of these include: the difference between the substantive and procedural law of MSs, the lack of certain criminal codes, and questions raised by double incrimination.

As stated above, the operative EU norms in record of verification concerning criminal cases consist of several parallel norms, which are built on diverse underlying principles; on one hand on the principle of MLA, on the other hand on the principle of mutual recognition.³¹ Then, it makes the application of norms difficult, furthermore, it can cause insecurity within the circle of people applying the law. We can consider the norms based on the MLA slow and inefficient, since they do not have any provisions about the forms applied for the issuing of requests concerning the obtaining of evidence that can be found in other MS, or about defined deadlines referring to the implementation of requests. Even norms grounded on the principle of mutual recognition are problematic from the aspect that they refer only to a defined type of evidence, furthermore, they accept several reasons regarding the refusal of the warrant's execution.

10. The European Investigation Order

In the *Stockholm programme*³² the European Council decided that the setting up of a comprehensive system for obtaining evidence in cases with a cross-border dimension, based on the principle of mutual recognition, should be further pursued. In April 2009, the Belgian government and a group of six MSs tabled an initiative³³ for a Directive to establish a EIO, a judicial decision issued by a competent authority of a MS in order to have one or several specific investigative measure(s) carried out in another MS. According to the fact, that the EIO is not in force yet, as it is still a proposal, and also it is not the subject of our paper, we would like to highlight only a few major points of the Directive, referring to the EEW.

The objective of the proposal is to create a *single, efficient and flexible instrument* for obtaining evidence located in another MS in the framework of criminal proceedings. The EIO, based on the principle of mutual recognition, will cover every ‘investigative measure’, however some measures require specific rules which are better dealt separately, e.g. the setting up of a JIT and the gathering of evidence within a JIT³⁴, as well as some specific forms of interception of telecommunications³⁵. Another novelty of the EIO compared to both MLA and the EEW is a stricter limitation of the grounds for refusal. In MLA, the list of grounds for refusal to execute the request is short, but the grounds themselves are very wide, in particular with the reference to sovereignty and public order. The proposal limits the grounds for refusal to four cases³⁶. Anyway, the proposal is expected to bring significant improvement.

11. Comparison

We should examine the EEW’s relationship with other former legal assistance institutions in order to be aware of its novelty and deficiencies. You may find our observations from a cross-sectional view in the next page by examining the table on the comparison of the above mentioned institutions.

<i>Aspects</i>	ECMA	1990 – Convention on Laundering³⁷	1990 – SIC	2000 -EUMLA	EAW	EEW
MS	members of the COE	members of the COE and other applicants	members of the EU	members of the EU	members of the EU	members of the EU
Competence	-any crimes (except from certain military crimes; executing of arrests) -obtaining evidences, service of writs, appearance of witnesses, experts and prosecuted persons	-crimes related to laundering (not itemized, just main components) -search, seizure, confiscation of proceeds from crime	-crimes related to tax, custom, civil proceeding related to criminal proc., certain infringements of law -police cooperation, other mutual assistance -search, seizure of objects, extradition	-any crimes, certain infringements, legal entities -Sending and service of procedural documents; restitution; temporary transfer of persons held in custody for purpose of investigation; hearing by videoconference; hearing of witnesses and experts by telephone conference; controlled deliveries; joint investigation teams; covert investigations; interception of telecommunications	-itemized and certain crimes -delivery, hearing, transit, seizure, other legal assistance (e.g. joint inv. group)	-itemized crimes, certain infringements, legal entities -obtain objects, doc., data (except from: conduct interviews, bodily examinations, e.g. DNS, real time evidences, analysis of existing objects, obtain data from public communications
Grounds for refusal	sovereignty, financial or political crime	sovereignty, financial or political crime, ne bis in idem, double criminality etc.	crimes under certain amount	do not contrary to the fundamental principles of law in the requested Member State	lapse, age of minor, ne bis in idem, double criminality in some cases etc.	ne bis in idem, double criminality in some cases, formal deficiency, national safety etc.
Double criminality	reservation of it related to seizure	may be referred to just if any request for coercive measures	relates to seizure	depends on the reservations	shall be examined related to some itemized crimes	-not examined -except from: search, seizure etc. (see written above)
Competent authorities	between Ministry of Justices (except from in urgent cases)	between central legal auth. (except from in urgent cases)	-between central police auth. -otherwise: directly between legal auth. (except from: for extradition-appointed Ministries)	directly between legal auth. (except from reservations)	-forwarding the warrant-through Ministry -otherwise: directly legal authorities -obstacle in execution: chief prosec., minister	directly between legal auth. (but MS may appoint a central auth.)
Deadline of execution	Depends on the requested	-	-	the shortest time that is possible	-hearing: immediately -otherwise: depends on the requesting	max. 60 days (except from some cases)
Translation	not necessary (except from reservations)	not necessary (except from reservations)	-	-	is necessary	is necessary (except from resignation)
Relationship with other conventions	Repeal other conventions (except from some spec.)	no effect on special conventions	supplement of ECMA; no effect on special conventions	supplement of other conventions., repeal some regulations of Schengen	-	cohabit with other conventions unless a unified system exists

12. Returning to the case

In Chapter 2, we outlined our expectations about the EEW in connection with the Seuso treasure. Right now, let us touch upon the main points of the relevancy of the EEW in the case of Mr. József Sümegeh's death, which is practically speaking an old, almost 30 years old crime. We should not forget that this is not only about obtaining the Seuso treasure, because a murder had been committed too. If it could be proved that the murder case is related to the Seuso treasure and they also link to the quadripus, then Hungary may sue the Lord in the UK, with regard to the fact, that the NYC court ruled that Hungary could not prove the origin of the treasure (nor could the Lord) by that time – but yet, we do not have to deal with this question as it is not criminal law, it falls into the competence of civil courts. We also should not forget that settling the argument about the ownership and origin of the Seuso treasure may be a tough blow for illegal international trade of art treasure.

Under the current provisions of Act IV of 1978 of the *Hungarian Criminal Code*, subsection (1) of section 166, the person who kills another person, commits a *felony*, and shall be punishable with imprisonment from five to fifteen years. According to paragraph b) of subsection (2), the punishment shall be life imprisonment, if the homicide is committed for *profit-making*. Punishability of cases of homicide qualifying more seriously [paragraphs a)-h) of subsection (2) of section 166] *shall not be prescribed*³⁸. Taking all this into consideration we shall see, that the case about Mr. József Sümegeh's death³⁹ – as homicide committed for profit-making – links to the Seuso treasure. The treasure - the evidence - which is stored in *London*, could be lawfully gathered by issuing an EEW, with regard to the following circumstances.

Obtaining the Seuso treasure as objects being sought, is necessary and proportionate for the purpose of criminal proceedings⁴⁰. These objects can be obtained under the law of Hungary in a comparable case if they were available in the territory of it⁴¹. The UK, as the executing authority shall recognise the issued and directly transmitted EEW, without any further formality and shall forthwith take the necessary measures for its execution in the same way as an authority of the UK would obtain the objects. The UK shall ensure that measures, including search or seizure, are available for the purpose of the execution of the EEW where it is related to any of the offences as set out in Article 14(2). The recognition or execution of the EEW shall not be subject to verification of double criminality unless it is necessary to carry out a search or seizure. If it is necessary to carry out a search or, the offence of murder, if it is punishable in the issuing MS by a custodial sentence or a detention order for a maximum period of at least three years and as they are defined by the law of that MS, shall not be subject to verification of double criminality under any circumstances⁴².

Recognition or execution of the EEW may be refused in the UK if there would be an immunity or privilege under their law, which would make impossible to execute the EEW⁴³. The Seuso treasure may be regarded as cultural heritage, but as the *House of Lords* confirmed on the 25th of June 1999, that it had *no further interest in the case*⁴⁴, they might not refuse the recognition or execution of the EEW referring to such reason.

As we mentioned above, the implementation deadline of the FD is the 19th January 2011. After that date – and also the transposition both in Hungary and the UK – the Seuso treasure could be obtained by Hungary, all the official and necessary examinations and analysis could be carried in order to find samples linking to the murderer of József Sümegh, and maybe as a partial result of the examinations, the origin of the Seuso treasure would be irrevocably settled.

According to the EIO, Home Secretary of the UK, *Theresa May* MP, made a statement to the House of Commons on 27th July 2010 on the Government's decision to opt into the draft Directive on the EIO⁴⁵. She admitted that the proposed EIO was not perfect, but she believed, it was important for the UK to opt-in⁴⁶, as the EIO would make it easier for police to investigate suspects living in each other's states and help fight crime in the UK⁴⁷.

13. The European Public Prosecutor

We should examine the institution of the EPP, because nowadays people cannot talk about international cooperation in criminal matters without mentioning the idea of the Commission of establishing the EPP. However, it is important to note that the institution of the EPP is not a cooperation forum towards which the EEW or the investigation order would mean a closer step. There is no logical link between them, because the idea of the EPP provides another trend in the development of criminal law in the EU.

It is not the main task of the present study to introduce the EPP's basic legal background and its establishment, because since the LT, every person who deals with criminal law in the EU has recognised this concept.

Deleted: Tampere Program

When the LT created the basis of the EPP, it ordered that „*to combat crimes affecting the financial interests of the Union, the Council, in accordance with a special legislative procedure, may establish a EPPO from Eurojust*”⁴⁸.

But what actually is the role of the EPP? It is a question of whether the competence of the EPP should be strictly related to crimes attacking the financial interests of the EU or it should be extended to other serious crimes. Before dealing with this problem, we must understand the functions of the EPP.

13.1. Its role and competence

According to the LT, the EPP *shall be responsible for investigating, prosecuting and bringing to judgement the perpetrators of offences against the financial interests of the Union*.⁴⁹

The Green Paper⁵⁰ orders that the Commission is responsible for implementing the budget.⁵¹ For this reason it must put greater emphasis on the protection of the financial interests of the EU. The protection must be effective, dissuasive and equivalent in the MS. The increased attention is essential in this area, because the Union's financial interests is the target of different crimes; in the most serious cases these are organised crimes, and this category of crimes uses all the latest

communication techniques⁵². In conclusion, the Commission restricts the role of the EPP only to these crimes, offences against the financial interests of the Union.

Contrary to this statement, many think that the EPP ought to concentrate on also other serious, cross-border crimes. For example terrorism is as significant problem of MS as fraud.⁵³

We can read in the LT the possibility of extending the EPP's material competence when it orders that *the European Council may adopt a decision amending paragraph 1 in order to extend the powers of the EPPO to include serious crime having cross-border dimension*.⁵⁴

We have arrived in an area of both international and European law by explaining the material competence of the EPP. This is the question of state competence and state sovereignty. It occurs for the reason that the wider the competence of the EPP is the greater the prospect of intervention in states' sovereignty. At this point, we should examine some notions related to this question.

13.2. Sovereignty problems

According to Max Huber, *sovereignty in the relation between states signifies independency. Independence means the right to exercise therein – to the exclusion of any other state - the functions of a state*.⁵⁵

From another view, sovereignty means *the supreme power of a state, which is absolute, incontrollable, universal and homogeneous*.⁵⁶ Absolute because there is no other power over the sovereign, so it decides exclusively alone in public cases throughout its territory. Incontrollable because it is independent from any other power. Universal because its power extends to every person and entity on its own territory. Homogeneous because the organs of the sovereign practice the supreme power all together.⁵⁷

It is said that one of the main features of the state sovereignty is the jurisdiction that can be either criminal jurisdiction.⁵⁸ It is characterized five principles, from which three are: the *territorial* principle means that states have the right to proceed in criminal offences committed in their own territories. The principle of *protection* refers to the right of the state to take measures in offences committed abroad but alluded to the safety of the state. The principle of *universality* entitles all the states to proceed in concrete crimes, such as piracy and war crimes.⁵⁹ Relating closely to this – but does not exist as a principle – we must not forget about those treaties that regulate the jurisdiction of the states but do not product a universal jurisdiction. These documents claim from the MSs to criminalise some certain offences within their own criminal law system.⁶⁰ This area requires an advanced cooperation.

In the natural law theories it is said that the sovereign is not compelled by the law but is obliged to respect those treaties which he entered into with others, as the natural law requires with regard to all the contracts to be observed.⁶¹

All in all, we can verify that if a state contributes to a rule which regulates and limits its sovereignty,

the injury of the sovereignty exists, but in an affirmative way.

Examining the Hungarian Constitution⁶², it orders that as being an EU MS, the competences deriving from the Constitution could be practised by common EU institutions. However, for this situation the national Parliament's qualified major decision is needed.⁶³ It means that even if a basic act gives the empowering to establish a central EU institution for practising any public competence, this is only a general entitling which claims a special authorization for it. As for this special authorization, a state's relevant power – in Hungary it is the Parliament – would not automatically and surely guarantee it because the intervention in the state's sovereignty does also further exist.⁶⁴

There is another problem relating to it, that is the necessity of criminal law "fusion" in order to establish a centralised public prosecution system, as it would mean a "fusion" among the continental legal systems and the anglo-saxon systems. Because of the diversity of national legal systems there is a necessity to have a common European law which would not amend national rules, but would be directly applicable when prosecuting "EU-frauds".⁶⁵ In case the competence of the EPP would be extended to other serious crimes, this would mean an extension of the common European law supplying for the national law in a too broad area.⁶⁶

In connection with a common European law, the British say that *"The UK accepts that more needs to be done to ensure effective prosecution of fraud within the Community. This co-operation is most likely to be effective if it takes into account the differing structures of the national criminal justice systems, rather than seeking to impose a uniform European model."*⁶⁷

Conclusively, we can fix that the problem of state sovereignty can be surmounted by restricting the material competence of the EPP only to crimes relating to EU-frauds.

13.3. Its relationship with Eurojust and OLAF

1. We should not forget that Eurojust is an EU body that provides judicial cooperation in criminal matters which are connected with serious, organised and cross-border crimes. This involves judges, prosecutors and police officers from MS. The main task of it is to assist the investigations and prosecutions in defined crimes. It has coordinative and consultative competence, it ensures that the competent authorities inform each other, it can ask an authority to investigate and prosecute crimes, it can set up a JIT etc.⁶⁸

Opposite to it, the EPP would be a specific public prosecution service which would be responsible for detecting and prosecuting EU-frauds. It would have broader rights and chances in criminal matters.

Some think they should move in the complementarity's level, because if the EPP's material competence was restricted to the financial interests of the EU, this would not affect deeply the competence of Eurojust.⁶⁹

2. Regarding OLAF as administrative investigation body in connection with EU-frauds, there are

some opinions, which force that the EPP should incorporate this organ and should control over its actions. Others think that – such as with Eurojust – the EPP should also cooperate with OLAF. It could be a successful cooperation because OLAF has a significant role in investigations of these crimes, but has a close authority. Contrary to it, the EPP has the power to investigate and prosecute these crimes, but would need the administrative and experienced help of OLAF.

Conclusively, we shall determine that both Eurojust and OLAF are indispensable in case the EPP also exists, as for the EPP it could be useful to count on the experience of Eurojust and OLAF. If the EPP has the competence to deal with crimes against the EC's financial interests, Eurojust could work its own, other areas and in certain financial offences it should help the working of the EPP, such as OLAF, which could further be an administrative investigation body, controlled by the EPP.

13.4. Its relationship with the EEW

Finally, we should examine the EPP's liaison with the EEW. It is an interesting question if the EPP could issue such a warrant or rather if the EPP does need to issue it. Deriving the role and status of the EPP from what is written in the Green Paper, it is hardly going to be his tool. The EPP is not an institution of cooperation. The EPP would not ask for assistance in gathering evidence in another country. Instead, he is going to gather or have it gathered in the European Judicial Area just like any national prosecutor in his country. Opposite to it, EEW is a tool to make it easier to obtain evidence abroad. However the expression "abroad" could exist in the area of criminal cooperation, but not in the work of the EPP and the Common European Judicial Area.

14. Conclusions

As criminal mergers have been growing in a more closed and sophisticated system, we – as a MS of a European and international community – are responsible for this community's safety by taking steps forward an efficient cooperation in criminal matters. In addition, what we should take into account is that there are two directions in the EU: first, the advanced criminal cooperation, which would involve in the EEW and EIO; secondly, a common criminal system in the EU that would include an EPP. The two institutions could remain in parallel coexistence with each other.

As we mentioned above, the existing rules of obtaining evidence in criminal matters in the EU consist of a number of co-existing instruments based on different underlying principles. We think that the MR-based EEW will make a remarkable change as it would make the present system easier, quicker and more effective. However, the EEW may also be regarded as unsatisfactory, in that it covers only specific types of evidence and it provides a quite large number of grounds for refusal to execute the warrant. As the mentioned factors may hinder cross-border cooperation, it is obvious why the main objective of the proposal on the EIO is to have a single regime in this field, and why it is felt necessary to replace the currently existing regimes. What the future will be depends mostly on

EU-legislation and criminal politics, but one thing is for sure: obtaining the Seuso treasure as evidence in a criminal procedure is not a problem any more, either if it is the EEW, or the EIO. The EEW – or the EIO – would not result an automatically prevailing ending of a case, but could take it easier to gather and use evidence in investigations. We do wait for the EEW to give the possibility to seize the treasure in order to examine them. It would not lead us to the positive ending of the case, but would give us a catching point to step forward in the investigation.

Taking all these considerations into account, it is have to be seen that the desired European area of freedom, security and justice is getting to be more and more reality, which is based on mutual trust among MSs, and strengthened by the good functioning of such instruments as the EEW.

As for the EPP, we shall pay attention to the fact that problems connected to it can only arise when we misunderstand its role and think it is an element of criminal cooperation, rather than regarding it as a product of a common European criminal law system.

END NOTES

- ¹ Green Paper on obtaining evidence in criminal matters from one Member State to another and securing its admissibility, COM(2009) 624 final.
- ² http://ec.europa.eu/justice_home/news/consulting_public/news_consulting_0004_en.htm (downloaded: 05.08.2010.).
- ³ <http://hu.wikipedia.org/wiki/Seuso-kincs> (downloaded: 12.07.2010.).
- ⁴ case # KF.V.IV.647/1980. and # V.XXIX.679/1980. at the Military Prosecution Service, and case # ORFK.45/1992. at the National Police Headquarters (ORFK).
- ⁵ <http://www.channel4.com/history/microsites/T/timeteam/2008/treasure/treasure-found.html> (downloaded: 12.07.2010).
- ⁶ http://www.nytimes.com/2006/10/25/arts/design/25sevs.html?_r=1 (downloaded: 12.07.2010)
- ⁷ <http://index.hu/kultur/klasz/seuso1008> (downloaded: 12.07.2010)
- ⁸ http://www.indavideo.hu/video/Seuso-kincsek_rejtelve (downloaded: 12.07.2010)
- ⁹ <http://www.kozlonvok.hu/kozlonvok/Kozlonvok/18/PDF/2006/18.pdf> (downloaded: 23.07.2010)
- ¹⁰ <http://www.europatanacs.hu/index.php?workSpace=pages&id=48&langId=1> (downloaded: 25.08.2010.)
- ¹¹ Act XIX of 1949.
- ¹² <http://www.homeoffice.gov.uk/publications/police/operational-policing/MLA-guidelines-8th-edition> (downloaded: 22.07.2010)
- ¹³ The First Protocol to that Convention was adopted in 1978 and had been ratified by all MS, except Malta. The Second Protocol to that Convention was adopted in 2001. The Convention also have many non-EU MS as contracting parties.
- ¹⁴ Articles 48-53.
- ¹⁵ except Ireland, plus also Norway, Iceland, Switzerland and (in future) Liechtenstein
- ¹⁶ <http://www.consilium.europa.eu/App/accords/Default.aspx?command=details&id=297&lang=EN&aid=2000023&doclang=EN> (downloaded: 23.07.2010)
- ¹⁷ a Protocol to that Convention dating from 2001, also in force in 2005.
- ¹⁸ 2003/577/JHA of 22nd July 2003.
- ¹⁹ The convention (19th June, 1990) of the implementation of the Schengen Convention, 14th June 1985, about the gradual abolishing of the monitoring of common state borders among the Benelux Economic Union's states, the Federal Republic of Germany, and the government of the French Republic (HL L 239.,2000.9.22., 19. p.).
- ²⁰ http://www.europa.eu.int/comm/justice_home/fsj/criminal/extradition/fsj_criminal_extradition_en.htm (downloaded: 09.08.2010.)
- ²¹ Council Framework Decision 2008/978/JHA of 18th December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters
- ²² The Council of the EU's sessions on 15-16th October 1999, and conclusions of the presidency – SN 200/1/99 REV 1.
- ²³ <http://eur-lex.europa.eu> (downloaded: 01.07.2010.)
- ²⁴ A part of the adopted conclusions of Hague Programme Council in Brussels, in November 2004. The Hague Programme includes the tasks that are intended to be implemented in the field of police and criminal cooperation by the Council in the next 5 years. The aim of creating EEW has become a part of this conclusion in accordance with mutual recognition. The ultimate implementation, if we just see the implementation of EEW, is quite far away, as it is not smooth at all.
- ²⁵ The Hungarian CCP for instance lists testimony too as evidence, but it cannot be collected with regard to the provisions of the evidence warrant according to the present FD. As long as a testimony is necessary, it can be requested from the executing state during a criminal procedure within the frames of the traditional criminal legal assistance.
- ²⁶ In case of the EAW the point of the maintenance of human rights is that the fulfilment of the EAW can be rejected if there's a reason for assuming that the arrest warrant serves punishment or accusation in connection with some discrimination.
- ²⁷ The Hungarian CCP. orders the involvement of a witness of authority during the implementation of a search procedure, what has compulsory and optional cases too, thus, it's compulsory to resort to a witness of authority during the search procedure if the person concerned or a representative are not at home. With regard to this, the issuing state can require the presence of a witness of authority if the person concerned isn't at home during the search procedure.
- ²⁸ It has to be fulfilled in 60 days if the requested data, object or document endangered a current proceedings or if they are used in other proceedings too or if the form has been filled in incorrectly.
- ²⁹ see Section (1)-(2) of Article 14.

³⁰ LIGETI, Katalin: A bizonyítékok átadásáról szóló kerethatározat-tervezet (European Evidence Warrant) Keresztszemet, Pólay Elemér Alapítvány, Szeged 2005, 139-145.p.

³¹ Green Paper on obtaining evidence in criminal matters from one MS to another and securing its admissibility, COM(2009) 624 final.

³² which was adopted on 11th of December 2009.

³³ Initiative for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters, 9145/10, Brussels, 29th of April 2010.

³⁴ as provided in Article 13 of the EUMLA and FD 2002/465/JHA

³⁵ referred to in Articles 18(1)(a)-(b), Article 18(2)(a) and (c) and Article 20 of the EUMLA

³⁶ Article 10(1) a) immunity or a privilege under the law of the executing State which makes it impossible to execute the EIO;

b) its execution would harm essential national security interests, jeopardise the source of the information or involve the use of classified information relating to specific intelligence activities;

c) there is no other investigative measure available which will make it possible to achieve a similar result; or

d) if the EIO has been issued in proceedings referred to in Article 4 (b)-(c) and the measure would not be authorised in a similar national case.

³⁷ Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime

³⁸ see paragraph c) of subsection (2) of section 33.

³⁹ which was in 1980.

⁴⁰ See paragraph a) of Article 7 of the EEW-decision.

⁴¹ paragraph b) of Article 7 of the EEW-decision.

⁴² Section (1)-(2) of Article 14 of the EEW-decision.

⁴³ Paragraph d) of Article 13 of the EEW-decision.

⁴⁴ <http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldhansrd/vo990625/text/90625w01.htm> (downloaded 05.07.2010)

⁴⁵ <http://www.parliament.uk/business/news/2010/07/european-investigation-order-statement> (downloaded: 06.08.2010.)

⁴⁶ <http://www.civitas.org.uk/wordpress/2010/08/04/examining-the-european-investigation-order> (downloaded: 06.08.2010.)

⁴⁷ www.bbc.co.uk/news/uk-politics-10777870 (downloaded: 06.08.2010.)

⁴⁸ Lisbon Treaty (2007), Article 69 E, point 1

⁴⁹ Lisbon Treaty (2007), Article 69 E, point 2

⁵⁰ Green Paper on criminal-law protection of the financial interests of the Community and the establishment of a European Prosecutor, COM (2001) 715 final (further: Green Paper (2001))

⁵¹ Green Paper (2001), point 3.1.1.; see also: EC Treaty, Article 280

⁵² Green Paper (2001), point 3.1.1.

⁵³ ROMA, Mónica: A EPP would be a dangerous distraction, 2004, http://www.cer.org.uk/articles/35_roma.html (further: Roma (2004))

⁵⁴ Lisbon Treaty, Article 69 E, point 4.

⁵⁵ KHAN, Daniel-Erasmus: Max Huber as Arbitrator: The Palmas (Miangas) Case and Other Arbitrations, The European Journal of International Law, Vol. 18, no. 1, 2007., p. 165

⁵⁶ ZÓDI, Zsolt: Az állami hatalom egysége és korlátozottsága, in: Szabófalvi-Szabó B.-Szabó M.-H. Szilágyi-Takács-Zódi: Bevezetés a jog-és államtudományokba, Prudencia Juris, 1995., Miskolc, 254. p. (further: Zódi (1995))

⁵⁷ Zódi (1995), p. 255.

⁵⁸ SHAW, Malcolm N.: Nemzetközi jog, CompLex Kiadó, 2008., Budapest, 521. p. (further: Shaw (2008))

⁵⁹ See in detail: Shaw (2008), p. 527-531., 537-542. [In connection with this principle, the Eichmann-case shall be mentioned, in which the court proclaims that in such cases the international law does not limit the states practising their own sovereignty, on the contrary, it does need the judicial and executive organs of the states in order to bring the perpetrators to trial. – Shaw (2008), p. 540.]

⁶⁰ Shaw (2008), p. 542-543.

⁶¹ For example: Jean Bodin's theory; in: Államelmélet, szerk. TAKÁCS, Péter. A Miskolci Egyetem Jogtörténeti és Jogelméleti Intézetének kiadványa, 1997, Miskolc, 53. p. [This is a basic principle which shall be completed by another one, which was fastened in the Lotus-case, where it is proclaimed that the limitation of the states' independency must not be a presumption, however the states must not practise their supreme powers over their own territories in absence of an affirmative rule. See in detail: The Lotus-case, http://www.worldcourts.com/pcij/eng/decisions/1927.09.07_lotus/; This was supported by the Eichmann-case, in which the court proclaimed that every state is completely sovereign within its own territory. This sovereignty is limited only by treaties regulating specific issues, or by customary law. See in detail: The Eichmann-case, <http://www.jstor.org/pss/1092085>]

⁶² Act XX. of 1949.

⁶³ See Article 2/A. § (1)-(2) of Act XX. of 1949

⁶⁴ The UK and Ireland forcibly dispute the EPP's necessity, referring to its intervention in state's sovereignty over its own judicial system. These states worry about the EPP's wide-ranging competence, like the power to prosecute, arrest and imprison people for as long as he wishes, with no public hearing; or police can hold people without charge or evidence. According to them the main problems are the lack of accountability of the EPP to any national law offices or to Parliament; and an EPP on an – earlier - first Pillar base such as Article 280 is incompatible with the balance currently found in the Treaties whereby the application of criminal law should remain reserved to MS. - Letter from Bob Ainsworth MP, Parliamentary Under Secretary of State, to the Chairman, 2002., <http://www.publications.parliament.uk/pa/ld200203/ldselect/lddeucom/196/196101.htm> /further: Letter from Bob Ainsworth (2002)/ [We should also mention the legality problem of some international criminal tribunals (like ICTY, ICTR) of which it was said that they got their authority from the Security Council (SC) on the basis of the empowering regulations of Article 41. of the UN Charter, which had been accepted by the MS. In the EU conception the MSs have not given their recognition in loosing their criminal competence in a basic contract. We could talk about some other discussed questions connected to the EPP - e.g. some thinks the EPP is a "hybrid system" which is impractical and likely to remove the prosecution function from democratic accountability, in addition, it fastens the risk of "forum-shopping", with the EPP selecting the forum where he is most likely to secure a conviction -, but these would not keep the scope of this paper.]

⁶⁵ MARTY, M. Delmas - VERVAELE, J.A.E.: The Implementation of the Corpus Juris in the Member States, Volume I., Intersentia, 2000., p.19.

⁶⁶ It shall be noted that the EPP's conception involves in both the features of the accusatorial model and the inquisitorial model's, as it refers the principle of public prosecution (inquisitorial) but it is surveilled by the "judge of freedom" (accusatorial).

⁶⁷ Letter from Bob Ainsworth (2002)

⁶⁸ www.eurojust.europa.eu

⁶⁹ See also: Follow-up Report on the Green Paper on the criminal-law protection of the financial interests of the EC and the establishment of a European Prosecutor; 2003, p. 12.

BIBLIOGRAPHY

1. European Convention on Mutual Assistance in Criminal Matters of 20th April 1959. ETS No.30.
2. The convention (19, June, 1990) of the implementation of the Schengen Convention, 14 June 1985, about the gradual abolishing of the monitoring of common state borders among the Benelux Economic Union's states, the Federal Republic of Germany, and the government of the French Republic
3. Council Framework Decision 2008/978/JHA of 18th December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters
4. Green Paper on obtaining evidence in criminal matters from one MS to another and securing its admissibility, COM(2009) 624 final.
5. EU Convention of 29th May 2000 on Mutual Assistance in Criminal Matters
6. Proposal for a Directive of the European Parliament and the Council regarding the European Investigation Order in criminal matters, Brussels, 29 April 2010, COPEN 115 , CODEC 363, EUROJUST 47, EJM 12
7. Initiative for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters, 9145/10, Brussels, 29th April 2010.
8. Green Paper on criminal-law protection of the financial interests of the Community and the establishment of a European Prosecutor, COM (2001) 715 final
9. Follow-up Report on the Green Paper on the criminal-law protection of the financial interests of the Community and the establishment of a European Prosecutor; 2003.
10. Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community
11. Act XX. of 1949 on the Hungarian Constitution

1. HAMILTON, James: Mutual Assistance of Criminal Matters in Ireland and the Proposed European Evidence Warrant. ERA and CPS Conference: Dealing with European Evidence – Practical reforms needed to improve Mutual Legal Assistance. Trier, 18-20th Nov. 2004.
2. KHAN, Daniel-Erasmus: Max Huber as Arbitrator: The Palmas (Miangas) Case and Other Arbitrations, The European Journal of International Law, Vol. 18, no. 1, 2007.
3. LIGETI, Katalin: A bizonyítékok átadásáról szóló kerethatározat-tervezet (European Evidence Warrant) Keresztszemet, Pólay Elemér Alapítvány, Szeged 2005.
4. MARTY, M. Delmas - VERVAELE, J.A.E.: The Implementation of the Corpus Juris in the Member States, Volume I., Intersentia, 2000.
5. ROMA, Mónica: A European Public Prosecutor would be a dangerous distraction, 2004.
6. SHAW, Malcolm N.: A joghatóság, in: Malcolm N. Shaw: Nemzetközi jog, CompLex Kiadó, 2008, Budapest
7. TAKÁCS, Péter (szerk): Államelmélet, A Miskolci Egyetem Jogtörténeti és Jogelméleti Intézetének kiadványa, 1997, Miskolc
8. TÖRŐ, Andrea: The European Evidence Warrant – legal regulation and anticipated effect, in: Ügyészek Lapja – Különszám, 2009,
9. G. VERMEULEN - W. DE BONDT - Y. VAN DAMME: EU cross-border gathering and use of evidence in criminal matters. Towards mutual recognition of investigative measures and free movement of evidence? (Principal European Commission)
10. WILLIAMS, Charles: The European Evidence Warrant: The proposal of the European Commission. ERA and CPS Conference: Dealing with European Evidence – Practical reforms needed to improve Mutual Legal Assistance. Trier, 18-20th November 2004.
11. ZÓDI, Zsolt: Az állami hatalom egysége és korlátozottsága, in: Szabadfalvi-Szabó B.-Szabó M.-H. Szilágyi-Takács-Zódi: Bevezetés a jog-és államtudományokba, Prudencia Juris, 1995, Miskolc

http://ec.europa.eu/justice_home/news/consulting_public/news_consulting_0004_en.htm
<http://hu.wikipedia.org/wiki/Seuso-kincs>
<http://www.channel4.com/history/microsites/T/timeteam/2008/treasure-found.html>
http://www.nytimes.com/2006/10/25/arts/design/25sevs.html?_r=1
<http://.index.hu/kultur/klasz/seuso1008>
http://www.indavideo.hu/video/Seuso-kincsek_rejtelye
<http://www.kozlonyok.hu/kozlonyok/Kozlonyok/18/PDF/2006/18.pdf>
<http://www.homeoffice.gov.uk/publications/police/operational-policing/MLA-guidelines-8th-edition>
<http://www.consilium.europa.eu/App/accords/Default.aspx?command=details&id=297&lang=EN&aid=2000023&doclang=EN>
<http://www.parliament.thestationeryoffice.co.uk/pa/ld199899/ldhansrd/vo990625/text/90625w01.htm>
<http://www.parliament.uk/business/news/2010/07/european-investigation-order-statement>
<http://www.civitas.org.uk/wordpress/2010/08/04/examining-the-european-investigation-order>
<http://www.bbc.co.uk/news/uk-politics-10777870>
http://www.europa.eu.int/comm/justice_home/fsj/criminal/extradition/fsj_criminal_extradition_en.htm
http://www.worldcourts.com/pcij/eng/decisions/1927.09.07_lotus/
<http://www.jstor.org/pss/1092085>
<http://www.publications.parliament.uk/pa/ld200203/ldselect/ldcom/196/196101.htm>
<http://www.eurojust.europa.eu>
http://www.cer.org.uk/articles/35_roma.html