

The role of the Court of Justice of the European Union in interpreting the European Arrest Warrant and securing fundamental rights

Luxembourg, 30-31 May 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

EIPA Luxembourg – European Centre for Judges and Lawyers, Building of the Chambre des Métiers, 2 Circuit de la Foire Internationale, 1347 Luxembourg

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 seminar provides an overview of the role of the Court of Justice of the European Union (CJEU) in shaping and enforcing EU criminal law. It will furthermore discuss in detail the preliminary reference procedure through which national judges can refer questions of interpretation and validity of EU law to the CJEU, where specific reference to criminal law issues will be made.

The seminar will also address what the end of the five-year transition period set by the Treaty of Lisbon will mean practically regarding the enforcement of EU criminal law, particularly with a view to the fact that infringement procedures will become available in this field as well. The seminar will duly focus on the CJEU's role of interpretation in shaping EU criminal law. In this vein, both the CJEU's influence on doctrinal themes of criminal law, the *ne bis in idem* principle in particular, along with fundamental rights standards in criminal procedures as set by the CJEU will be examined. The relevance of the individual complaints procedure before the ECtHR will be discussed and its repercussions to parallel national and CJEU procedures. The discussions related to the CJEU will be complemented with a visit to the CJEU in Luxembourg.

Experts

Magdalena Ličková, Legal Secretary, Chambers of Advocate General Bobek Michal, Court of Justice of the European Union, magdalena.lickova@curia.europa.eu

Gábor Magyar, Criminal Defence Lawyer, Magyar Gyorgy and Associates, Budapest magyar@magyarugyvved.hu

Roby Schons, Criminal Defence Lawyer, Law firm Michel, Schons & Krieps, Luxembourg, me.schons@schons.lu (to be confirmed)

To be determined, Member of the Luxembourg Judiciary

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 30 MAY 2017

- 09.00 **Welcome and mutual introduction**
- 09.15 **The complementary roles of the national court and the CJEU regarding EU criminal law**
The session will discuss the respective roles of national courts and that of the CJEU in interpreting and applying EU criminal law. Constitutional principles of EU law such as supremacy, direct effect and direct applicability will also be revisited to introduce the mechanism in which EU criminal has benefited from judicial interpretation and application.
Petra Jeney
- 10.15 Discussion
- 10.30 Coffee break
- 10.45 **The preliminary reference procedure and the urgent preliminary reference procedure – and their relevance to the interpretation of the European Arrest Warrant**
The relationship of national courts and the CJEU has been specifically formed in the framework of the preliminary reference procedure. The session intends to explain the basic tenets of this procedure, and focus on its relevance to EU criminal, especially the urgent preliminary reference procedure which is specific to this field.
Magdalena Ličková
- 12.00 Discussion
- 12.15 Lunch

- 13.30 **Workshop: How to formulate a reference?**
The workshop will comprise an exercise on how national courts need to formulate references to the CJEU in the context of the preliminary reference procedure. While participants will have the opportunity to try their hands in forming a reference the wrap up part of the session will summarize the Dos and Don'ts and will provide an overview of the CJEU's expectations on how a reference coming from a national court should look like.
Magdalena Ličková, Gábor Magyar
- 14.30 Coffee break
- 14.45 **Human rights protection in the context of EU criminal law, with a particular reference to the European Arrest Warrant**
The session will explore the basic tenets of fundamental rights protection in the EU where particular attention will be made on what primary and secondary sources of EU law is particularly related to the EAW. CJEU case law on the interplay between EU fundamental rights protection and the application of the EAW will specifically referred to.
Gábor Magyar
- 16.00 Discussion
- 16.15 **Human rights protection under the auspices of the ECHR, with a particular reference to the European Arrest Warrant**
Complementing the previous session an overview will be given of the ECHR's human rights protection regime and its relevance to the application of the EAW. The interplay between the EU and ECHR will be explained and further revisited in a subsequent workshop.
Gábor Magyar
- 17.30 **End of Day 1**

WEDNESDAY 31 MAY 2017

- 08.00 **Meeting at the Court of Justice of the European Union**
- 08.20 **Hearing at the Court of Justice of the European Union**
- 08.45 **Briefing on the Case XXXX**
- 09.30 **Hearing of the case XXXX**
- 13.00 **Lunch**



- 14.30 **Workshop related to the interplay of the ECtHR and CJEU fundamental rights protection regimes**
Participants will have an opportunity to review an EAW case posing issues, both under the EU and the ECHR's human rights regime. Examining and discussing both procedural and substantive law issues related to human rights in the context of an EAW case will enable participants to fully appreciate the relevance of the interplay of the two human rights protection regimes.
Roby Schons (to be confirmed), Member of the Luxembourg Judiciary (to be determined)
- 16.00 Coffee break
- 16.15 **Concluding remarks on the intersection of the application of the EAW and fundamental rights protection**
The session will serve as a wrap-up of the items covered during the previous sessions where future of the intersections of human rights protection and the EAW will be discussed with a special reference to detention.
Petra Jeney
- 17.15 **Evaluation**
- 17.45 **END OF SEMINAR**