

**Rob Blekxtoon, Wouter van Ballegooij and Antonio Vitorino (eds), *Handbook on The European Arrest Warrant* (T.M.C. Asser Press, The Hague, 2004, 283pp., £60.00 (US\$110.00)) ISBN 9 067 04181 5 (hb).**

With the aim of assisting all interested parties for the successful implementation of a new extradition mechanism for the European Union, Judge Rob Blekxtoon, the Asser Press and the Asser Institute have developed a European Arrest Warrant (EAW) project within the framework of the EU's AGIS Programme. The *Handbook on The European Arrest Warrant*<sup>1</sup> forms the basis of this project, which will proceed as an international network to enhance mutual recognition and judicial cooperation in criminal matters within the European Union<sup>1</sup>.

This timely book contains papers discussing the European Arrest Warrant from international criminal law, human rights law and the EU law approaches, touching more upon the grounds for the refusal of arrest warrant requests and the mechanism's safeguards on the fundamental human rights. Blekxtoon, Ballegooij and Vitorino's collection of 13 articles in three parts and an additional section including a commentary on each article of the Council Framework Decision establishing the EAW, brings together an impressive group of European scholars and practitioners from the Netherlands, Poland, Austria, Portugal, Croatia and the United Kingdom in addition to the members of the European Commission and Eurojust. The book owes its comprehensive overview of the Framework Decision on the European Arrest Warrant<sup>2</sup> to its experts' range of case studies and comparative research of the rules and procedures of the EU Member States.

The analysis of the latest EU extradition mechanism which focuses on the process of Europeanisation in criminal matters begins with a chapter written by Michael Plachta and Wouter van Ballegooij where the readers are introduced to the legal basis of the EU judicial cooperation in the criminal sphere. The analysis on the historical evolution of the Area of Freedom, Security and Justice and mutual assistance between Member States begins with a comparison between the earlier EU extradition instruments and the traditional procedures. This chapter, concluding with a brief presentation to the European Arrest Warrant, is developed by Otto Lagodny's discussion on the substantive and procedural divergences between the EAW and the previous extradition devices. Lagodny draws the attention to the terminology used by the drafters of the Framework Decision, emphasising the significance of substituting the term 'extradition' with 'surrender'. In the following chapter, Liane Ang studies procedural rules of the EAW underlining a substantial change to the extradition procedure of the European Union. As Ang rightly accentuates, the European Arrest Warrant's great achievement has been the judicialisation of the decision-making in surrender cases. The final chapter of the first part of the book concludes with an article by Jose Luis Lopes da Mota and Roelof Jan Manschot. Focusing on the relevant provisions of the Framework Decision for the Eurojust-EAW mutual collaboration, the members of

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<sup>1</sup> The project will update the book electronically at an internet site: <http://www.eurowarrant.net>.

<sup>2</sup> Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States (2002/584/JHA) OJ L 190/1 of 18 July 2002.

Eurojust analyse the link between successful implementation of arrest warrants with the assistance of a competent Eurojust.

The second part of the handbook focuses more on the ‘special issues’ of the European Arrest Warrant. Initially, Harmen van der Wilt explores the principle of reciprocity. The scholar critiques on the difficulties that might arise during the execution of this principle due to a possible conflict between inter-state equality and a Member State’s sovereignty. In addition, van der Wilt draws attention to the risk of internal conflict between the prosecutor and judiciary stating that the division of responsibilities in relation to release of arrest warrants between judicial authorities might give rise to competition for power. In the subsequent chapter, Selma de Groot explores the principle of mutual trust. De Groot accurately concludes that mutual trust is ‘an important factor in the developments in the field of international criminal (procedural) law within the European Union’ (p. 4) as the current European criminal justice system builds on mutual recognition and mutual assistance. Harmen van der Wilt enhances the guidance on the EAW by his analysis of the new mechanism from a perspective of the *ne bis in idem* principle. Exploring the grounds for Member States’ reluctance in recognising others’ criminal justice systems, van der Wilt suggests the centralisation of prosecutions in one Member State with the coordination of Eurojust. Wilt’s proposal for the proper administration of the principle may also comprehend mutual trust at an EU level. Davor Krapac pays attention to the verdicts in *abstentia* in his following chapter. Krapac notes to the point that the EAW eliminates the loophole in the traditional mechanism that has enabled the refusal of extradition requirements for judgments in *abstentia*. The last paper of this second part of the book concentrates on the principle of double criminality requirement. After his analysis of the requirement as a general rule, Nico Keijzer mainly explores Article 2(2) of the Framework Decision as an exception to the rule. The Article lists 32 categories of ‘Euro-crimes’ for which the EAW permits surrender ‘without verification of the double criminality of the act.’ Keijzer’s article introduces the difficulties in defining each and every category briefly touching upon the related EU instruments. The link between these instruments could preferably be established in this chapter.

The last part of the book aims to release humanitarian concerns on the European Arrest Warrant where the chapters carefully analyse the mandatory and optional grounds for the refusal of any surrender. The main argument in the papers is that the new mechanism of the EU does not and will not have a negative impact on the respect for the fundamental rights of suspects and detainees; ‘it may however well enhance defendants’ rights’ (p. 195). Paul Galick contributes to the debate with his analysis on the bond between Articles 3, 5 and 6 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) and the European values set in the preamble of the Framework Decision. Nico Keijzer further develops ‘the general presumption that the European Arrest Warrants are sound and lawful and that the human rights provisions... will be respected’ (p. 194) with his thorough study of Article 13 ECHR on the right to an effective remedy. Galick’s and Keijzer’s comparative analysis on the national substantive laws are enhanced by Caroline Morgan’s overview on the mechanism. Morgan stresses the importance of the European Arrest Warrant as being the first initiative in the Programme of Measures that is developing to accomplish mutual recognition within EU. Furthermore, Morgan underlines that the system introduced by the European Commission and its

safeguards ‘can only operate effectively in a spirit of confidence, where by not only the judicial authorities, but all actors in the criminal process see decisions of the judicial authorities of other Member States as equivalent to their own and do not call in question their judicial capacity and respect for fair trials’ (p. 196). Finally, Hans Lensing concludes the discussion with a comparison on the rules concerning the mutual assistance in areas of extradition and the transfer of the execution of prison sentences imposed by foreign judiciary. Lensing’s article is followed by Blekxtoon’s valuable commentary on the provisions of the Framework Decision, though it appears to me that the handbook lacks its overall concluding remarks.

All in all, *The Handbook on the European Arrest Warrant* is definitely a product of intensive work. Its well-written papers make the European Arrest Warrant system apparent to the targeted reader. This book and the European Arrest Warrant project will best serve the better understanding of the judiciary, governments, practitioners, scholars and police of the principle of mutual recognition in extradition, which will fortunately enhance mutual trust and the international criminal justice system within the European Union.

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