|  |
| --- |
| ***How could the UK continue to be a member of the European Arrest Warrant as a non-EU country? And should it?*** |
|  |
|  |
| **18RogersT** |
| **Wirral Grammar School for Boys** |

|  |
| --- |
| The proposal of the European Commission to the European Council on Thursday 17 November 2016 regarding what access the UK should be given to the European Arrest Warrant and under what terms should this access be given. |

***ALL MEMBER STATES (UK INCLUDED) PRESENTATION:***

The Commission proposes that if the UK would like to retain partial access to the EAW then she will have to revoke all of her opt-outs and make a significant financial contribution - as by not being a member state, she is in no position to compromise Commission statutes.

The UK will have to make a financial contribution. There are substantial costs involved in running pan-European police and justice systems such as Europol, Eurojust and ECRIS (the European criminal records database). If the UK would like to cooperate with Europe via still having some partial access to the EAW, then she will have to subsidise the costs of other pan-European police and justice systems. As the second-largest economy amongst the current member states, the UK will be required to contribute 20% for the cost of running all JHA systems, (approximately €10 million per annum for each programme).

The commission drew up a series of six measures between 2009 and 2013 in order to safeguard the rights of those subject to an EAW, through the Procedural Rights Roadmap. Currently, the UK has an opt-out for Justice and Home Affairs, which it used in respect of the last four measures on the Roadmap, including the right to a lawyer. By no longer being a member-state, the UK can no longer receive such tailor-made compromises and so the Commission asserts that the UK will have to opt in to all Roadmap measures, if she is to retain partial access to the EAW.

If the UK agrees to the aforementioned terms then her relationship within the EAW should revert from the current unilateral arrangement and return to traditional cooperation relations via a multilateral agreement and extradition built upon the European Convention on Extradition, 13 December 1957.

Multilateral cooperation between the UK and EU, particularly in regards to combatting crime, is essential to those states bordering the EU as well as the states under the unilateral cooperation within it. This is so that vital conventions such as the European Convention on the Suppression of Terrorism of 27 January 1977 are not undermined with a return to lengthy and often uncooperative extradition processes and so potentially allowing criminals on the run to escape justice. A prime example of the necessity of judicial cooperation was when Hussain Osman, (charged for perpetrating in the failed 21 July London bomb attacks, attempted murder, conspiracy to commit murder and explosives offences). Osman was swiftly arrested in Italy and extradited back to the UK to face justice – without the efficiency of the European Arrest Warrant this could have been a lengthy and long-winded process which may have increased the chances of Osman escaping justice. On average the EAW has reduced the timeframe for intra-EU extradition from 1 year, to 16 days with individual consents, and 50 days when they do not consent.

However, due to the fact that the EAW relies on a system of mutual trust, the EAW can only apply in countries that are signatories of the European Convention of Human Rights and so the UK will not be allowed full access like Norway and Iceland if she wishes to remove her signatory from the European Convention of Human Rights.

But the UK is allowed partial access solely due to the fact that the Commission is confident that the UK complies with high standards of procedural safeguards, even if they are not technically ‘EU standards’.

Moreover, as is evident with the number of extradition applications to the UK increasing from 1,865 in 2004 to 14,279 in 2015/16 and applications from the UK increasing from 96 in 2004 to 241 in 2015/16, the warrant is becoming used more and more frequently. This is partly due to one of the main reasons of the formulation of the Warrant which was to neutralise the inevitable problem of freedom of movement of people and goods – the freedom of movement of criminals and crime; therefore, full access to the EAW can only be secured with an obligation to accept the freedom of movement of people, goods, capital and services.

Multilateral cooperation means that the extradition convention will continue to work against the crimes outlined in Article 2, paragraph 2 of the Council Framework Decision of 13 June 2002. However under the proposed system arrests will not be mandatory and so the issue of prima facie evidence will be addressed. This is probably less quick but is definitely much more cost-efficient as it will prevent miscarriages of justice and the trial of trivial cases such as the theft of a bicycle.

Under multilateral cooperation, the validity of the request will be assessed by the extraditing state and prosecution will follow by the requesting state if the suspect has been extradited. The system of ‘mutual recognition’ will be exempt from this proposal as requesting state will have to produce sufficient evidence to the extraditing state in order for it to effectively validate the request before extradition. Extradition shall not be granted if the competent judicial authority of the requested party has decided either not to institute or to terminate proceedings. The requested party’s competent judicial authority shall make the independent, final, ruling.

*In summary, the Commission believes that it would be in the mutual interest of both the EU and the UK to work multilaterally to combat crime on a European scale, particularly as the UK is geographically situated so close to the continent. Therefore the Commission asks for member states and the UK to agree to this proposal as with increased globalisation, crime needs to be tackled on an international scale – not merely a national one.*