

Better applying European Criminal Law

ERA Court staff training

The European Arrest Warrant



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Council Framework Decision 2002/584 on the European arrest warrant and the surrender procedures between Member States - Case 1 scenario

- The Head of Police of Heraklion, on behalf of the Public Prosecutor's Office at the Court of Appeal of Eastern Crete, issues an EAW to the Netherlands concerning a medical doctor of Dutch nationality (Dr Drion), living in Maastricht, who allegedly committed murder and sabotage. The facts of the murder relate to his assistance in putting an end to the life of the Greek national Karalis in Heraklion. On the specific request of Karalis, Drion injected him with a lethal substance, which caused his death a few minutes later. The facts of the sabotage relate to the destruction of the property of Aegean Airlines in Athens airport, resulting from the frustration of Dr Drion when he found out that he had missed his flight back to Maastricht.

Council Framework Decision 2002/584 on the European arrest warrant and the surrender procedures between Member States - Case 1 scenario – The questions

- 1. Is there an obligation for the Netherlands to surrender Dr Drion, and if so, under which conditions?
- 2. Would it make a difference if the offences had not occurred in Greece, but in the Netherlands?
- 3. Can the Netherlands make an assessment of the offences and qualify them according to Dutch criminal law?
- 4. Does the nationality of the requested person play a role?
- 5. Will the requested person be detained pending the procedure?
- 6. Which authorities will be involved on both sides concerning this EAW?
- 7. What is the procedure provided in the Netherlands and how long will it take?
- 8. What role do the Greek authorities play during the surrender procedure?
- 9. When and how will the surrender take place?
- 10. Imagine the surrender succeeds. Under which conditions can the Greek prosecutor also charge Drion with the further offence of shoplifting?

Mutual Trust and the European Arrest Warrant

- In principle: comply with EAW
- Except for applicable grounds for refusal (Meloni)
- However: human right concerns (Aranyosi/ Calderaru)
- MS must ask assurances concerning absolute rights

Mutual trust at the moment of surrender only?

- Second Aranyosi-case: guarantees for the first detention unit only? This could lead to MS monitoring each other (ML, C-220/18 PPU)
- Mutual trust in MS in which the rule of law is endangered? The case of Poland and Hungary. COM-Recommendation 2018/103 + C-354/20 PPU (DCAmsterdam ref. on Poland)
- Mutual trust in a former Member State - UK
- Mutual trust in non-Member States – Norway/ Iceland