

# THE EUROPEAN ARREST WARRANT

Is it the first title of direct execution in the  
European Criminal Judicial Area?

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Evaluation of the present situation  
and perspectives of future

Toledo, 8 - 11 November 2004  
Antiguo Convento de San Pedro Mártir  
Facultad de Ciencias Jurídicas y Sociales



Coordination: Ángeles Gutiérrez Zarza  
Professor of Procedural Law, UCLM

 **UCLM**  
UNIVERSIDAD DE CASTILLA-LA MANCHA  
Instituto de Derecho Penal Europeo e Internacional



AGIS 2003  
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**iSSD** INTERNATIONAL  
SOCIETY  
OF SOCIAL  
DEFENSE  
AND HUMANE CRIMINAL POLICY

## MONDAY 8<sup>TH</sup> NOVEMBER

10:00 h **ACREDITATIONS.**

11:00 h **INAUGURATION.**

12:30 h **CONFERENCE: THE TAMPERE EUROPEAN COUNCIL II – CONCLUSIONS.**

Marjorie **BONN**. Dutch Ministry of Justice. Head of the Task Force competent for the negotiation of the "Multiannual Programm building the Area of Freedom, Security and Justice"

16:00 h **INTRODUCTION: THE EUROPEAN ARREST WARRANT AND THE PRINCIPLE OF MUTUAL RECOGNITION. THE ADJUSTMENT OF THE FRAMEWORK DECISION ON THE EUROPEAN ARREST WARRANT IN THE MEMBER STATES.**

Topics:

- 1) The European Arrest Warrant as first instrument based on mutual recognition of criminal decisions in the European Judicial Area.
- 2) The adjustment of the Council Framework Decision in the Fifteen Member States.
- 3) The adjustment of the Council Framework Decision in the New Member States.
- 4) The situation in the Applicant Countries.

Speakers:

- Ángeles **G. ZARZA**. Professor of Procedural Law. University of Castilla-La Mancha.  
*The European Arrest Warrant as first instrument based on mutual recognition...*
- Fernando **IRURZUN**. Attorney General. Justice Counsellor. Permanent Representation of Spain before the European Union.  
*The adjustment in the first Fifteen Member States.*
- Anna **ONDREJOVA**. Head of the Unit of European Integration. Slovakia.  
*The adjustment in the New Member States.*
- Anca **TANASOIU**. District Attorney. Office of cooperation and international programs. General Attached district attorney's office to the Supreme Court of Justice of Romania.  
*The situation in the Applicant Countries.*

18:30 h **COMPLEXITY OF INSTRUMENTS ABOUT EXTRADITION AND ARREST AND SURRENDER IN THE EUROPEAN JUDICIAL AREA.**

Topics:

- 1) Difficulties of determination of the applicable legislation concerning the extradition and detention and surrender.
- 2) European Judicial Area and Island and Norway.
- 3) European Judicial Area and Switzerland.
- 4) The Agreement on extradition between the European Union and the United States of America.

Speakers:

- Gilles **DE KERCHOVE D'OUSSELGHEM**. Director of Justice and Home Affairs. General Secretariat. Council of the European Union.  
*Difficulties of determination...*  
*European Judicial Area and Island and Norway...*
- Roland **KILLMANN**. Prosecutor. European Office against Defraud, OLAF.  
*European Judicial Area and Switzerland.*
- Luis Francisco **DE JORGE MESAS**. Head of Division of the International Affairs Department. Spanish General Council of the Judiciary.  
*The Agreement on extradition between...*

## TUESDAY 9<sup>TH</sup> NOVEMBER

10:00 h **MATERIAL SCOPE OF THE EUROPEAN ARREST WARRANT (I).**

Topics:

- 1) Harmonisation of criminal types. Is it a necessary condition for the implementation of the European arrest warrant?.
- 2) Material Scope of the European arrest warrant. Guidelines of interpretation.
- 3) Harmonisation of sanctions.

Speakers:

- Anne **WEYEMBERGH**. Doctor in Law. Professor in the University of Bruges (Belgium).  
*Harmonisation of the criminal types, is it a necessary condition for the implementation of the European arrest warrant?.*
- David **MARTÍNEZ MADERO**. Special Attorney. Special Attorney's Office for the Repression of the Economic Crimes and related to the Corruption.  
*Material Scope of the European arrest warrant. Guidelines of interpretation.*
- Anabela **MIRANDA RODRIGUES**. Full Professor of Criminal Law. Coimbra University.  
*Harmonisation of sanctions.*

12:30 h **MATERIAL SCOPE OF THE EUROPEAN ARREST WARRANT (II).**

Topics:

- 1) Terrorism crime.
- 2) Illegal immigration and traffic of human beings.
- 3) Corruption.

Speakers:

- Nicolás **GARCÍA-RIVAS**. Full Professor of Criminal Law. University of Castilla-La Mancha.  
*Terrorism crime.*
- Francisco Javier **DE LEÓN**. Professor of Criminal Law. University of Castilla-La Mancha.  
*Illegal immigration and traffic of human beings.*
- Adán **NIETO MARTÍN**. Professor of Criminal Law. Castilla-La Mancha University.  
*Corruption crime.*

16:30 h **EXTRATERRITORIALITY OF CRIMINAL AND PROCEDURAL LAW IN THE EUROPEAN ARREST WARRANT. COMPETENT AUTHORITIES. CONTENT AND FORM OF THE EUROPEAN ARREST WARRANT.**

- Topics:
- 1) Extraterritoriality of Criminal and Procedural Law in the European Arrest Warrant.
  - 2) Competent judicial authorities of the Issuing State. Competent judicial authorities of the Executing State. Central Authorities.
  - 3) European Judicial Network's help to determinate the competent authority.
  - 4) Form and content of the European arrest warrant. How to fill the official questionnaire.

- Speakers:
- Gonzalo **QUINTERO OLIVARES**. Full Professor of Criminal Law. Rovira Virgili University. Tarragona  
*Extraterritoriality of Criminal and Procedural Law*
  - Javier Luis **PARRA GARCÍA**. Judge
  - Ángel **GALGO PECO**. Magistrate. Secretary of the European Judicial Network  
*Competent judicial authorities...*  
*Form and content of the European Arrest Warrant*

19:00 h **TRANSMISSION OF THE EUROPEAN ARREST WARRANT.**

- Topics:
- 1) Ways of Transmission of the European Arrest Warrant.
  - 2) The Transmission by the SIS. Europol.
  - 3) The SIS of II Generation.
  - 4) Data bases of criminal records.

- Speakers:
- José Javier **POLO RODRÍGUEZ**. Prosecutor Attorney of Provincial Court of Toledo.  
*Ways of Transmission of the European Arrest Warrant.*
  - Jose Luis **MARIA DE FRUTOS**. SIRENE Office.  
*The Transmission by the SIS...*
  - Gerit **HUYBREGHTS**. SIS Division. General Secretariat. Council of the European Union.  
*The SIS of II Generation.*
  - Valentín **DUENAS JIMÉNEZ**. General Direction of International Judicial Cooperation. Spanish Ministry of Justice.  
*Data bases of criminal records.*

**WEDNESDAY 10<sup>TH</sup> NOVEMBER**

10:00 h **GROUND FOR MANDATORY NON-EXECUTION AND GUARANTEES TO BE GIVEN BY THE MEMBER STATE IN PARTICULAR CASES (I).**

- Topics:
- 1) The principle of double incrimination. The particular fact of fiscal crime.
  - 2) Minors.
  - 3) National requested person of the Executing State (and of the Transit State).

- Speakers:
- Emmanuel **BARBE**. French Judge of *liaison* in Italy.  
*The principle of double incrimination. The particular fact of fiscal crime.*
  - Leven **ALTAN**. General Directorate of Justice and Home Affairs. European Commission.  
*Minors.*
  - Daniel **FLORÉ**. Counsellor of the Belgium Justice Ministry. Professor in the Catholic University of Lovaina.  
*National requested person of the Executing State (and of the Transit State).*

12:30 h **GROUND FOR MANDATORY NON-EXECUTION AND GUARANTEES TO BE GIVEN BY THE MEMBER STATE IN PARTICULAR CASES (II).**

- Topics:
- 1) The "non bis in idem" rule. Different manifestations.
  - 2) Amnesty. Prescription of the crime and of the sentence.
  - 3) The protection of Fundamental Rights. Legal grounds for non-execution?.

- Speakers:
- John **VERVAELE**. Full Professor of Criminal and Procedural Law. University of Utrecht.  
*The principle of "non bis in idem". Different manifestations.*
  - Alessandro **BERNARDI**. Full Professor of Criminal Law. University of Ferrara.  
*Amnesty. Prescription of the crime and of the sentence.*
  - Rob **BLEKXTOON**. Vice-president of the District Court of Amsterdam.  
*The protection of Fundamental Rights. Legal grounds for non-execution?.*

16:30 h **GROUND FOR MANDATORY NON-EXECUTION AND GUARANTEES TO BE GIVEN BY THE MEMBER STATE IN PARTICULAR CASES (III).**

- Topics:
- 1) Decision rendered *in absentia*.
  - 2) Custodial life sentence or life-time detention order.
  - 3) Speciality rule. Reference to the supposition of the requested person in the Executing State.

- Speakers:
- Luis **RODRÍGUEZ SOL**. Prosecutor. Special Attorney's Office for the Repression of the Economic Crime and related to the Corruption.  
*Decision Rendered in absentia*
  - Juan Jose **LÓPEZ ORTEGA**. Judge. Provincial Court of Madrid.  
*Custodial life sentence or life-time detention order.*  
*Speciality rule.*

## THURSDAY 11<sup>TH</sup> NOVEMBER

### 10:00 h RIGHTS OF THE REQUESTED PERSON.

- Topics:
- 1) Rights of the requested person. Right to be informed about the content of the European Arrest Warrant.
  - 2) Right to be assisted by a legal counsel and by an interpreter.
  - 3) Consent to surrender. Renunciation of entitlement to the "speciality rule".
  - 4) Hearing to the requested person by the issuing judicial authority or temporal surrender.

- Speakers:
- Daniel **BERNARD**. Federal Prosecutor. Belgium.  
*Rights of the requested person. Right to be informed about the content of the European Arrest Warrant.*
  - Francisco **JIMÉNEZ-VILLAREJO**. Prosecutor. Provincial Court of Málaga.  
*Right to be assisted by a legal counsel and by an interpreter.*
  - José Ricardo **DE PRADA SOLAESA**. Judge. National Court. Criminal Section.  
*Consent to surrender. Renunciation of entitlement to the "speciality rule".*
  - Joachim **VOGEL**. Full Professor of Criminal and Procedural Law. University of Tubinga. Judge of the High Court of Justice of Stuttgart.  
*Hearing to the requested person by the issuing judicial authority or temporal surrender.*

### 12:30 h PREVENTIVE MEASURES. PRIVILEGES AND IMMUNITIES. TEMPORARY TRANSFERS.

- Topics:
- 1) Personal preventive measures.
  - 2) Patrimonial preventive measures.
  - 3) Privileges and immunities.
  - 4) Temporary Transfers.

- Speaker:
- Mar **JIMENO BULNES**. Professor of Procedural Law. University of Burgos.  
*Personal preventive measures.*
  - Coral **ARANGUENA FANEJO**. Professor of Procedural Law. Valladolid University  
*Patrimonial preventive measures.*
  - José Antonio **MARTÍN PALLÍN**. Judge. Chamber 2, Criminal Section of the High Court.  
*Privileges and immunities.*
  - Joaquín **DELGADO MARTÍN**. Central Service Director. General Secretariat of the General Council of the Judiciary. Expert of REJUE (Spanish Judicial Network of International Cooperation).  
*Temporary Transfers.*

### 16:30 h SURRENDER DECISION. DECISION IN CASE OF MULTIPLE REQUESTS.

- Topics:
- 1) Postponed or conditional surrender.
  - 2) Transit State.
  - 3) Decision in case of multiple requests of European arrest warrants. Advice of Eurojust.
  - 4) Decision in case of multiple requests of European arrest warrant and extradition. Intervention of central authorities. Special reference to the Agreement with the United States. Surrender or subsequent extradition to the State, which has received the requested person from another State.
  - 5) The European Arrest Warrant and the International Criminal Court.

- Speakers:
- Fernando **ANDREU MIRALLES**. Judge. National Court.  
*Postponed or conditional surrender.*  
*Transit State.*
  - María Teresa **GÁLVEZ DÍEZ**. Prosecutor. Special Attorney's Office for the Repression of the Economic Crime and related to the Corruption.  
*Decision in case of multiple requests of European arrest warrants. Advice of Eurojust.*
  - Lorenzo **SALAZAR**. Judge. Counsellor of Justice. Permanent Representation of Italy before the European Union.  
*Decision in case of multiple requests of European arrest warrant and extradition...*
  - Salvador **VIADA BARDAJÍ**. Prosecutor.  
*The European Arrest Warrant and the International Criminal Court.*

### 20:00 h DRAFT ABOUT GOOD PRACTICES ON THE EUROPEAN ARREST WARRANT AND SURRENDER AND DETENTION

*Discussion and approval of provisional version by the assistants to the Seminar.*  
Anabela **MIRANDA RODRÍGUEZ**.  
Ángeles **GUTIÉRREZ-ZARZA**.

### 21:00 h CLOSING SESSION.





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Comisión Europea  
Dirección General Justicia e Interior

## THE EUROPEAN ARREST WARRANT

**Place:** Toledo School of Social and Legal Sciences.  
San Pedro Mártir s/n.  
45071 Toledo.  
SPAIN.

**Dates:** 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, and 11<sup>th</sup> November 2004

**Languages:** English, French, Spanish. Simultaneous translation.

## OBJETIVES

The **object** of the practical Seminar, of four days of duration, is to analyse the process of adjustment of the Council Framework Decision on the European Arrest Warrant and to detect the difficulties that are arising for the first months of implementation of the respective national legislations.

The main **work document** of the assistants to the Seminar will be a **Draft of Practical Guide on the European Arrest Warrant**.

The Draft will follow the systematic of the Framework Decision on the European Arrest Warrant. The communications -presented by advance- will have been gotten up in it and also the information about the particularities of the European Arrest Warrant in each one of the Member States of the European Union.

The content of the debates and the communications presented by the assistants will be gotten up to the Guide, which will be published in English, French and Spanish with the financial support of the "Agis" Program of the European Commission.

The Seminar will have like result a **Document about Good Practices on the European Arrest Warrant**.

National experts will attend the Seminar by each one of the 25 Member States of the European Union, as well as members of organs, institutions and agencies of the European Union with competences in the matter of Justice and Home Affairs.

It will also count on the attendance of judges, public prosecutors and authorities of police with equivalent functions, central authorities and civil employees of the Ministries of Justice, professors of University, lawyers and other professionals specialized in Criminal Justice and Criminal Procedure of the European Union.

People interested in attending the Seminar who have not been invited as speakers or national experts nor belong to some of the collaborating organizations will have to fill in the corresponding registration (annexed form to the program). Limited seats. Registration dates from 1 to 31 of October. Registration fee 600 € (it includes work documents and meals for the four days of duration of the Seminar), that will have to be deposited in:

**Fundación General de la Universidad de Castilla-La Mancha**  
Swift code: BSCHEM, account number: ES40 0049 4907 2524 1729 9797

When making the deposit, note that the payment is for the Experts Seminar on European Arrest Warrant. The registration form and a copy of the bank transfer order should be sent to the following Fax: 00.34.926.29.52.35

## SECRETARY'S OFFICE

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