



Policing the European Arrest Warrant

An empirical project in progress – Questions raised by the pilot study

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Policing the European Arrest Warrant

The European Arrest Warrant

The Existing Literature

Questions Raised by the Literature

Designing the Project

Conducting the Pilot Study

Questions Raised by the Pilot Study



The European Arrest Warrant

Council Framework Decision of 13 June 2002 *on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA)*

- Lengthy Political and judicial process replaced by a judicial system of quasi-automatic surrender based on the principle of mutual recognition
- Requires courts in receiving states to recognise decisions of courts in requesting states
- Effective January 2004



Content of the EAW

- Aimed at serious crime
 - At least 12 month maximum sentence
 - Or sentence already passed of at least 4 months
- Dual criminality
- Or one of 32 offences, at least 3 years sentence, including:

- | | | |
|-----------------------|--------------------------|--|
| - Rape | - Arson | - Money laundering |
| - Murder & GBH | - Crimes under ICC | - Corruption |
| - Trafficking | - Hijacking | - Participation in criminal organisation |
| - Racism & Xenophobia | - Sabotage | - Environmental crime |
| - Forgery | - Computer related crime | |



Academic Literature on the EAW



Academic Literature on the EAW

- Academic literature mostly focuses on the role of the law, judges and prosecutors.
 - Managing diverse legal systems
 - Decision to prosecute
 - Mutual trust
 - Proportionality
 - Prison conditions
 - Varying degrees of human rights protection
 - Roadmap on procedural rights
 - Sovereignty paradox
 - Extends the reach of the criminal law outside the boundaries of the state
 - Obliges courts in receiving states to give effect to decisions of foreign courts



Why focus on police?

- Police role is largely absent from the literature and the framework decision
- The system must start and end with the police
- Issues around sovereignty and mutual trust might look very different from the perspective of the police
- The EAW provides a unique lens through which to view a sliver of the diverse and complex field of transnational policing
- Opportunity to contribute to two bodies of research
 - The European Arrest Warrant literature
 - The Transnational Policing literature



Existing literature and possible research questions

Existing literature	Research questions
Absence of police role from literature.	What role do the police play?
Cross-border policing is low visibility and accountability mechanisms are under-developed.	Has the formal structure of the EAW led to the development better opportunities for oversight?
Low visibility of transnational policing networks makes them difficult to study and describe.	Can the lens of the EAW help to build a clear picture of some of the networks involved?
The problem of mutual trust / Notion of shared police culture.	Does mutual trust between policing actors rest on different foundations than trust between judicial authorities?
National practices differ considerably in terms of numbers of warrants.	What explains these differences? Do police practices play a role?
The sovereignty paradox.	How do policing actors understand the effect that the EAW has on their powers?



Designing the Project



The original research questions

- What is the role of policing actors in the EAW system?
- What processes do policing actors go through when arrest warrants are issued and executed?
- What modes of communication do policing actors use when issuing and executing arrest warrants? What organisations, systems and networks are involved?
- What is the supporting role of formal methods of cross-border cooperation in the EAW system?
- When and why do policing actors will utilise formal methods of cross-border cooperation, including the EAW itself?
- Explore, describe and explain different national practices of policing actors within the EAW system.



Choosing Participants

- Examining the UK system it is immediately apparent that police agencies operate at the start, end and center of the process.
- Enquiries began with SIRENE Bureau at the NCA. Central Authority for England and Wales.
- Snowball Sampling approach – each participant is asked to identify other possible participants.
- This approach ensures wide coverage and contributes to building a picture of the networks involved.

Case Study Design

CONTEXT

The General Case

POLICE PRACTICE RELATING TO THE EUROPEAN ARREST
WARRANT IN THE UK

Holis&c analysis

CONTEXT

Embedded Case 1

TRANSNATIONAL
COOPERATION
WITH POLAND

Comparative analysis

CONTEXT

Embedded Case 2

TRANSNATIONAL
COOPERATION
WITH SPAIN

CONTEXT

Embedded Case 3

TRANSNATIONAL
COOPERATION
WITH IRELAND



Choosing Jurisdictions for Comparison

- 5 years of EAW traffic to and from UK – 2011 to 2015.
- Shortlist of six countries appearing in top 10 of both lists
- Examined unique features of each system identified in existing literature and by basic internet research
- Selected 3 countries that will allow me to compare contextual issues which may explain differences in practice

- Ireland
- Spain
- Poland



Dividing up the UK





Methods

- Interviews
- Focus Groups
- Observations
- Statistical analysis
- Document analysis



The Pilot Study



Conducting the Pilot Study

- Study conducted in March 2016
- One Local Police force in the North of England
- Two taped interviews
 - One individual interview
 - One group interview with 3 officers
- Purpose:
- To test interview protocols and equipment
- To demonstrate feasibility of the study
- To explore aims of the study and identify other areas of inquiry



Results of the Pilot Study

- Police are the start and end of the process – Local forces
- They are also the center of the process – The SIRENE Bureau
- Cross-border communication relating to the EAW is mostly formalised
- Urgency or complexity one reason for informal or direct cross-border communication
- The issues of diverse practice especially relating to proportionality do not seem to impact on a sense of shared culture



Unexpected Questions Raised

- The logistics of surrender
 - Effect of time limits?
 - Jurisdiction and source of power to detain?
 - Number of stakeholders?
- The effect of UK membership to SIS II
 - Increased efficiency?
 - Increased volume?
- The role of resources
 - Proportionality questions?
 - The relationship between risk and resources?
- Geographical challenges in the UK
 - Are these replicated elsewhere?
 - What can the UK learn from different national set-ups?



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