

EU fast-track extradition comes under scrutiny

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by Riccardo M. Ghia

The European Arrest Warrant, a fast-track extradition system, has been praised by prosecutors and police forces as an effective measure against transnational organised crime, terrorism and serious offences

Activists call for justice reform after a powerful EU tool against serious and organised crime has been used to arrest Julian Assange, the founder of **Wikileaks**.

The **European Arrest Warrant**, a fast-track extradition system, has been praised by prosecutors and police forces as an effective measure against transnational organised crime, terrorism and serious offences.

However, critics point out that the system is vulnerable to **misuses** and **abuses** – from politically motivated cases to the prosecution of minor offences.

The European Arrest Warrant was designed to bring people to trial. But it is not clear whether Assange is wanted for prosecution or simply for asking some questions over the allegations of sexual assault.

In the latter case, extradition would be unnecessary, according to Fair Trials International, a London-based non governmental organisation.

"In some cases, people have been extradited before the prosecution is ready to charge them," says Catherine Heard, head of policy at Fair Trials International. "It's a clear contravention of how the system is meant to work."

Concerns about Assange's extradition

Mark Stephens, Assange's lawyer, says that his client has not been charged with any crime.

"The procedure is fundamentally flawed because ... Assange has not been given details about the allegations or the evidence against him," Stephens says.

"Julian Assange waited for 40 days and 40 nights in Sweden trying to meet the prosecutor. She refused to meet him. He asked for permission to leave Sweden, and she gave him permission to do so."

Stephens says that he thinks the accusations against his client are politically motivated. According to The Independent, Sweden entered secret talks with US authorities to hand Assange to them.

Former US General Attorney Michael Mukasey also suggested that Swedish accusations might be only "holding charges" while the espionage case against Assange is instructed in the United States.

Mafia, terrorism and corruption

The European Arrest Warrant law entered into force across the 27 EU member states between 2004 and 2005, as a response both to the 9/11 attacks and the progressive elimination of border control within the EU.

About **14,000** European Arrest Warrants are issued every year – more than 1,000 requests are filed to the UK authorities alone. Extradition must take place within 90 days of arrest or within 10 days if the arrested person consents to surrender.

Before, extradition process lasted nine months on average.

The European Arrest Warrant is used for 32 categories of serious offences punished with a minimum sentence of 3 years in prison, including murder and rape.

In 2005, the Italian judiciary issued a European Arrest Warrant to extradite Antonio La Torre, a prominent boss of the Neapolitan Mafia who set up a string of legal businesses in Aberdeen, Scotland.

The same year, the British authorities used the fast-track extradition system to return Osman Hussain, one of the London bombers, from Italy.

Matthew Newman, spokesman for the justice commissioner Viviane Reding, says that prosecutors all over Europe have found this instrument "very useful".

"The vast majority of cases are properly implemented," Newman says.

Luigi De Magistris, a former Italian prosecutor who now chairs the European Parliament Committee on

Budgetary Control, also praised the EAW legislation.

"The European Arrest Warrant is an essential instrument to fight cross-border crime – from terrorism to Mafia, from money laundering to corruption," De Magistris says.

"However, even the best tools might be misused. We must follow both legal procedures and common sense. And we must also ensure that certain accusations are not levelled against people for political motives."

UK government overhaul plans

Graham Watson, former leader of the Alliance of Liberals and Democrats for Europe (ALDE), who wrote the legislation for the European Arrest Warrant, says that the UK government plans to overhaul its implementation.

"The EAW was intended as an anti-terrorism measure or a measure for serious crimes," Watson says.

"But we have a problem in the way the legislation has been implemented in the United Kingdom. That is why you have people extradite for crimes which are not covered by the European Arrest Warrant. And I think this is probably the case in Julian Assange's case."

Judicial review and rule of law

Watson also adds that judicial review provides the defendants with extra guarantees.

"Last year, British judges refused in 26 cases to extradite somebody who was requested under European Arrest Warrant," he says.

According to the EU Commission website, judges may refuse extradition if

- the person has already been tried for the same offence;
- an amnesty covers the offence in its national legislation;
- the offence is statute barred according to its law;
- the person is a minor.

However, European Arrest Warrants have been criticised for lowering the standards of extradition procedures.

Before, the accuser had to prove there was a case to answer; the alleged crime committed abroad was recognised as a crime in Britain; and the Home Secretary had to be satisfied the accused would have a fair trial in the country wishing to extradite them.

Supporters of the European Arrest Warrant say that it reinforces the rule of law and removes political discretionary power, converting the extradition process into a system completely run by the judiciary.

"Justice in Europe campaign"

Fair Trials International has launched "Justice in Europe," a civil rights campaign to push three key reforms:

- Arrest Warrants should not be issued for minor offences where the effect of extradition is disproportionate to the alleged crime;
- Courts should be able to refuse extradition where it would breach fundamental rights, for example if it has been a grossly unfair trial, or if a fair trial is clearly impossible;
- Europe must continue legislating to require all EU countries to respect basic fair trial rights and ensure people are not kept in pre-trial detention for excessive periods.

Catherine Heard, head of policy at Fair Trials International, says cases of injustice are mounting, with people extradited to serve sentences imposed after grossly unfair trials, torn from their homes and families for the most minor offences and held in foreign prisons for months without trial.

"Reform of Europe's fast track extradition system is long overdue," she says.

In a letter to Fair Trials International, EU justice commissioner Viviane Reding wrote that "while we need the efficient and effective extradition system provided by the EAW in a Europe of open borders, there is considerable room for improvement in the operation of the EAW system."