

The European Arrest Warrant (EAW) analyzed by an example – the extradition case of SS officer Søren Kam.



Søren Kam

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## 1. Introduction

On 13th June 2002 the EU adopted the Framework Decision 2002/584/JHA of the European arrest warrant and the surrender procedures between Member States of citizens of a Member State for prosecution in another Member State.

The Framework Decision definition of the European arrest warrant is: "The European arrest warrant is a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order."<sup>1</sup>

From the EU point of view the Framework Decision was adopted to improve the surrender procedures between Member States. From being a political and administrative proceeding in future it should be faster and simpler because it was now legal proceedings. The procedure has therefore no political interference, and the decision on a person's surrender on the basis of the arrest warrant is solely a legal process.

Prior to the adoption of the European arrest warrant had been almost a year facing worldwide deep emotional scars on top of the terrorist attack on the Twin Towers in New York on 11th September 2001. Although the warrant applied to a number of offenses beyond terror the events in New York seemed as a catalyst to reach agreement on the EAW. Jackie Hodgson does indeed in "Safeguarding Suspects"<sup>2</sup> point the fact that the warrant was hastened through the EU law machine as emergency legislation with remarkably little debate.

The European Arrest Warrant is in force in all 27 Member States, and since it entered into force on 1st January 2004 evaluations from the EU show that it functions efficiently. In the period 2005-2010, the number of warrants issued doubled to 13,900 in 2010, while the number of found and / or arrested persons has risen from 1,770 to 6,460 in the 2005-2010 period. People surrendered in the same period increased from 1,530 to 5,370.<sup>3</sup>

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002F0584:EN:NOT> quoted 29<sup>th</sup> December 2012

<sup>2</sup> *Jacqueline S. Hodgson*, "Safeguarding Suspects' Rights in Europe: A comparative perspective", in: *New Criminal Law Review*, vol. 14, no. 4, pp. 621

<sup>3</sup> [https://e-justice.europa.eu/content\\_european\\_arrest\\_warrant-90-da.do](https://e-justice.europa.eu/content_european_arrest_warrant-90-da.do), quoted 27<sup>th</sup> December 2012