

**The fundamental unfairness of
the European Arrest Warrant legislation 2002**

Interview to MEPs responsible for the undemocratic EAW

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Watch the BBC interview

Participants:

[BBC Anchor-woman interviewer](#)

[Ms. Vivien Reading, Justice Commissioner](#)

[Mr. Jan-Philipp Albrecht MEP \(Germany Green Party\)](#)

[Mr. Claude Moraes MEP \(UK Labour Party\)](#)

[Mr. Graham Watson MEP \(UK Lib Dem\) a republican "Godfather of the unfair EAW"](#)

[Mr. Rafal Trzaskowski MEP \(Poland Conservative Party\)](#)

(part 1/2) : http://www.youtube.com/watch?v=F4eXd630DSg&feature=player_embedded

BBC Anchor interviewer:

Seven years after it was introduced there are serious questions about Europe's Arrest Warrant, and some are calling for a complete overhaul of the legislation.

The attacks on September 11th in 2001 across the Atlantic created a new urgency in Europe for getting a European Arrest Warrant agreed to fight terrorism and organised crime. Soon after it came in to force it was used extradite failed bomber Hussain Osman from Rome to Britain in 2005, he was later convicted of an attempt to attack the London Transport system.

The Arrest Warrant has, undoubtedly, delivered many suspects accused of serious crimes to face trial, but **a recent report from campaign group,**

Fair Trials International, shows how some member states are issuing huge numbers of warrants, many, the report claims, for apparently petty crimes. Figures for 2009 reveal nearly 5,000 issued by Poland alone, twice the number issued by Germany and a fraction of those requested by France. For the same year Britain only asked for 220 people to be extradited.

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The report calls for a total revamp of the law. It says the current system is “placing the speedy surrender of persons to other member states above the proper safeguarding of fundamental rights and the principle of proportionality,” and it warns, without change, many more people will suffer injustice as a result of Europe’s no questions asked extradition system.

It’s a sentiment expressed by many in the Strasbourg chamber this week as MEP’s demanded how the European Commission planned to address the system’s shortcomings. Vivien Reading, the Justice Commissioner, said the Arrest Warrant is a key part of Europe’s arsenal to fight crime, but she admitted there were problems too.

Vivien Reading, Justice Commissioner:

It has been instrumental in smashing paedophile rings, catching murderers and terrorists and that is what it is there for.

However, and this is a recent movement, **we’ve seen since 2007 that the number of Arrest Warrant issues has risen dramatically. In some cases being used in a less than proportionate manner to extradite suspects often of petty crime; stealing a bike or a piglet. This is unnecessary and may damage the legitimacy of this power EU mutual recognition tool.**

1 [Spain -which has a culture of nepotism, corruption and undemocratic Judiciary](#) since the Fascist dictatorship of general Franco- is also a large abuser of the EAW, issuing around 2.500 a year concerning the United Kingdom alone. [The unlawful EAW against Dr Meizoso is the first issued on a mere private complaint registered in Summer 2006; the EAW was obtained by Catalanist Mafia](#) using a dirty trick of not notifying the complaint to Dr Meizoso thus violating his fundamental right to defend himself. A real estate developer posing as the 92 years old Plaintiff’s solicitor wants to grab the national heritage site protected by the [International Foundation Can Mossenya - Friends of Jorge Luis Borges](#) that Dr Meizoso chairs... This case provides a most outrageous example of how easy is for criminals to abuse the unfair EAW.

BBC Anchor interviewer:

The Commission says it will soon issue new guidelines to EU countries on how to use the Warrant properly. Plans to tighten up the rights of people facing trial and questioning are in the pipeline, as are new rules on training for judges and police.

But it all still falls short of an actual change in the law that set up the Arrest Warrant in the first place.

Well to talk about all of this and way ahead, I'm joined by four members of the European Parliament here in Strasbourg. We have Jan-Philipp Albrecht who is a German MEP from the Green Party and you sit on the Civil Liberties Committee and you are one of those that has put a question which has triggered this week's debate. Equally Claude Moraes, you've also put forward a question, you're a Labour MEP and speak for Labour on that Civil Liberties Committee, also speak for the European Socialist. Graham Watson, you as Chair of that Civil Liberties Committee back in 2001 actually were the MEP who put forward the Arrest Warrant, took it forward through the House. And we also have Rafal Trzaskowski who is one of the senior MEP's from the Civic Platform Polish Central Right Party.

Now your government is in power at the moment and is using the Arrest Warrant fairly frequently apparently, now Claude Moraes what is the problem with this, because clearly it has been useful, it has delivered people who are wanted criminals to justice?

Mr. Claude Moraes MEP (UK Labour Party)

The great thing about it was that it would reduce extradition which we used to talk about as a very cumbersome process. I mean it was a cultural thing and in television programmes people would talk about how long extradition would be for serious crimes, and essentially it knocked down a 9 month average wait to 50 days. That had to be a good thing. It had to be a good thing to deal with serious organised crime which is growing.

So what went wrong?

BBC Anchor interviewer:

But now we've got a system that is delivering chicken thieves and people that have gone over their overdraft?

Mr. Claude Moraes MEP (UK Labour Party)

Anyone who defends or who was involved in creating the European Arrest Warrant has it in their interest to ensure that we revise it. The trivial cases have really damaged what is a very strong, procedural advance for the European Union, it's very positive. And I think the idea that trivial cases, which tend to be dominant; of course the media reports them, but they are there, they are real. This has really damaged what was a fantastic procedural advance.

BBC Anchor interviewer:

And it's not just Graham Watson, a problem of trivial cases rather than just the serious crime for which it was intended, but also that people are, in some cases, being delivered to judicial and police systems which are not fit for purpose, where they are not getting proper legal representation. So in some ways the EU put the cart before the horse; it should have made sure that this quality was there before setting up the Arrest Warrant, which you helped push through didn't you?

Mr. Graham Watson MEP (UK Lib Dem) a republican "Godfather of the unfair EAW"

Well I think you have to remember that this is used in thousands of cases every year now and it's probably the most effective tool that we have in fighting cross-border crime.

But when we put it forward in Parliament we argued that it should only be used in cases which would have incurred a minimum of 3 years in prison and we argued that it should be accompanied by another directive on guaranteeing minimum rights to defendants in criminal proceedings.

Now, of course, we are only one half of the legislator, the other half; the national governments and the council administers decided against this and it was reduced to one year, so anything, any crime that would have incurred a prison sentence of 1 year. And sadly the Commission proposal on the rights for defendants in criminal proceedings was never taken up by the Council of Ministers.

Now this has led to one or two cases, and I think that are rightly the case of Parliamentary and other concern, one or two cases where, not only have **Warrants been issued for rather frivolous offences, but where people**

that are accused of serious offences have not had the rights that we would expect defendants to have.

BBC Anchor interviewer:

Some would argue though, and I wonder if you agree Jan-Philipp, one or two cases it a little bit of an understatement, certainly if you read the report from Fair Trials Abroad; there are many cases where this is? Let me ask Jan-Philipp, do you think that Graham is underestimating the problem?

Mr. Jan-Philipp Albrecht MEP (Germany Green Party):

I think a little bit, but this is not the core concern. I think that there has been a mistake and this was pointed out, that we didn't really build up common standards before going forward with mutual recognition measures like the European Arrest Warrant. Or to combining both together and this was a huge mistake which has to be corrected now.

BBC Anchor interviewer:

How do you correct it?

Mr. Jan-Philipp Albrecht MEP (Germany Green Party):

And therefore I think **we need to adjust the European Arrest Warrant, we need proper nationality tests and then we have to go forward by building up common standards which are binding for the member states, and I really refer to that implicit request; the member states have to come up with proposals.**

BBC Anchor interviewer:

Rafal, given that Poland, if you look at the figures, is currently using that Arrest Warrant probably more than any other EU country, I think the figures are around 4,000 times for the year 2009, and **given that Poland is going to take over the Presidency of the EU pretty soon, is this going to be at the top of the agenda of the Polish Presidency?**

Mr. Rafal Trzaskowski MEP (Poland Conservative Party)

Well I mean **it's not among our top priorities, that's for sure.** I mean if it's going to be in the pipeline we will deal with that.

BBC Anchor interviewer:

Why not though? Why isn't it at the top of your priorities?

Mr. Rafal Trzaskowski MEP (Poland Conservative Party)

I mean simply because, you know, **this is a question which is with us for the past 10 years, I mean we're not going to resolve it in a matter of months. This is so serious, especially when we talk about first of all changing this instrument, and if we were to change it I mean it takes time to do it.** But I mean if we were, for example, to raise one year to three years, I mean that can be done let's say in a legislative process which we could at least see the end of it. But if we were talking about really having common standards about which Graham has just said, that really takes time.

But I think that the Polish Government is taking this quite seriously, because quite often, especially in the Polish case, it has been abused.

BBC Anchor interviewer:

But what we're talking about surely and what the campaigners are talking about is amending the legislation aren't they?

Mr. Claude Moraes MEP (UK Labour Party)

It's a pity that it's not in the programme, even if it's not top of the agenda.

One of the reasons I say that is that yes **there's this profound issue of procedural rights and guarantees not keeping pace with the mutual recognition. This is the trouble.**

BBC Anchor interviewer:

And let's remind people what that is, that's about having a translator at your trial, it's about having a legal representation. It's nothing very.

Mr. Claude Moraes MEP (UK Labour Party)

Absolutely. There's a time lag and of course these directives are in place, we're moving towards them. **But we didn't create that even playing field in the first instance.**

Now the reason why it's a pity that it's not in the Polish Presidency is that I think it would have been good for the Polish Presidency. First of all there are many cases in relation to Poland both in the procedural guarantee side, for example, detention that's seen as unfair, simply because it's different from detention times in other countries. Now nobody's criticising any individual country, but **the unevenness creates, what I would say, is a field day for Euro-sceptics because what they do is they point to the European Arrest Warrant as evidence of the idea that some countries have harsher detention regimes than other countries.**

BBC Anchor interviewer:

But they do, they do have harsher regimes.

Mr. Claude Moraes MEP (UK Labour Party)

They do, and exactly which is why.

BBC Anchor interviewer:

But they're right to point to that aren't they?

Mr. Claude Moraes MEP (UK Labour Party)

They're right to point it, but of course they don't give the reason or the process by which we're trying to even up procedural standards together with the mutual things.

Mr. Graham Watson MEP (UK Lib Dem) a republican "Godfather of the unfair EAW"

I think what's important here is it's not, we don't need to change the legislation. What we need to do is to insist that we get a directive on minimum standards for defendants in criminal legal proceedings.

We've made some progress already. We already have a directive, for example, on the right to interpretation in criminal proceedings.

Mr. Claude Moraes MEP (UK Labour Party)

We have the Letter of Rights as directed.

Mr. Graham Watson MEP (UK Lib Dem) a republican "Godfather of the unfair EAW"

And we have a Letter of Rights. But **we also need to insist more with the member states on how they have implemented the legislation.** Some, like Germany, have implemented it extremely well and so their judges do not extradite people in certain cases where they have concerns.

In other countries like Britain, I think we didn't look quite as closely at the way we implemented legislation. I'm pretty pleased that the current government has said we're going to review the way in which it has been implemented.

BBC Anchor interviewer:

Now we're competing slightly with a visiting orchestra down there, but Philipp let me ask you though don't you think this issue though hasn't quite been addressed, of **how can you have a situation where a grandfather from Bristol is being asked to be extradited to Poland for an overdraft, according to [Fair Trials \[International\]](#) abroad**, that he didn't pay several years ago?

Mr. Jan-Philipp Albrecht MEP (Germany Green Party):

Sometimes there are general problems in co-operating because member states have different definitions on how to imply those directives in their member states, and for example **in Poland I have the impression that often the European Arrest Warrant was used also to, for example, because the National Arrest Warrants, the National titles are sometimes too hard to get. And then a European Arrest Warrant was even easier to get than a National one, and these are situations which shouldn't occur in the framework of Europe.**

Watch the BBC interview **(part 2/2)** :

http://www.youtube.com/watch?v=Gf--bPVFQ2g&feature=player_embedded

BBC Anchor interviewer:

Why does Poland have such a huge number of examples of where the Arrest Warrant has been used Rafal?

Mr. Rafal Trzaskowski MEP (Poland Conservative Party)

Well I mean first of all because, you know, if you look for example at Britain and the size of our immigration there, there's simply an incredible amount of movement when it comes to Polish citizens.

And yes it is true that sometimes this instrument is over abused because it is relatively easy to get, and I think that the most thing is that we sort of change our practices and implementation and there are clear recommendations when we are actually resorting to this instrument.

BBC Anchor interviewer:

And there are recommendations but it doesn't seem to do the trick.

Mr. Rafal Trzaskowski MEP (Poland Conservative Party)

We had a huge debate about it because we had to change our constitution in order to actually be able to implement that because our constitution quote has actually put a question mark whether it is in agreement with our constitution. So we had to change our constitution, we had a huge debate about it because I mean the Polish people and the Polish government then was absolutely convinced that there will be a positive impact on Europe. And we have to say that loud and clear, I mean the overall effect is very, very positive, because most of those guys are serious criminals which are brought to justice.

But this is a very, very controversial issue. When it comes to having co-ordinated approach to our criminal systems, I mean this is the thing that touches upon sovereignty, that's why it goes so slow, but there is absolute agreement that we have to do something about it, first with practices and then with actually thinking about legislative moves because there is no other way.

BBC Anchor interviewer:

Do you Claude, agree with the demand by campaigners like Fair Trials Abroad,

that actually a refusal by a member state to hand somebody over must be respected, and it isn't at the moment?

Mr. Claude Moraes MEP (UK Labour Party)

Well we have that power to refuse to hand someone over.

BBC Anchor interviewer:

Well it's not used though is it?

Mr. Claude Moraes MEP (UK Labour Party)

But I would rather, well that's because member states are trying to do the right thing. **They're trying to solve organised crime in most cases.**

I think what we're slightly missing as well is that as legislators we have to look at the wider impact of European legislation like the European Arrest Warrant, because we are in a special position where this has now become a battlefield area, in my view, and because it touches on sovereignty very visceral issues like prison conditions, where we don't have the legislative power, because we touched on those issues we should be aware that our newspapers will not be full of the successes like the 21st July bomber who was apprehended and cases like that. But they will be full of the trivial cases, and that feeds a Euro-sceptic agenda and my concern is that we should also be seen to be doing something about the European Arrest Warrant.

BBC Anchor interviewer:

But Claude, forgive me for saying, you seem more worried about feeding the Euro-sceptic agenda than actually changing the legislation to make sure these miscarriages aren't happening?

Mr. Claude Moraes MEP (UK Labour Party)

I'm worried about the Euro-sceptic agenda because we're trying to catch serious organised criminals, that's why I'm worried. And that agenda damages what is a very good procedural vehicle for doing it.

Mr. Graham Watson MEP (UK Lib Dem) a republican “Godfather of the unfair EAW”

It’s true and it’s actually not right to say that there are no cases where in Britain, for example, last year there were nearly 30 cases where the judges refused to extradite somebody for one reason or another on the basis of the European Arrest Warrant. There were over 30 cases the year before, so it does happen. Now judges don’t always get it right any more than politicians, but the reality is that this is the only effective tool we have in Europe at the moment to deal with people who are criminals who escape across borders.

And as Mark Twain said; “a criminal is half way across the world before the policeman has got his boots on.” Unless we can get our police forces working together and our judiciaries working together in tackling **organised crime**, then the victims of that crime are going to have no access to justice whatsoever.

Mr. Claude Moraes MEP (UK Labour Party)

It’s judicial, not political.

Mr. Rafal Trzaskowski MEP (Poland Conservative Party)

And that makes it very difficult because judges are independent and very proud of that independence and rightly so, so that’s very difficult to have recommendations which would actually be effective. Its best practices, that’s the first step.

Mr. Jan-Philipp Albrecht MEP (Germany Green Party):

We have also a framework which is binding for us all, which is the Convention of Human Rights, for example. The European Convention Article 6 – Fair Trial and so on, and this is leading the decisions also of the judges in Europe.

And in addition now we also have the Charter of Fundamental Rights on the European level which is binding us as European Institutions also to follow up these cases which are important to care about.

Therefore I really would like to have us all going forward for common new procedural standards and amending a little bit practice and also our framework in which we are corporate.

BBC Anchor interviewer:

Do you not agree then that actually getting the ministers around the table, which is what Rafal seems to be saying, to accept a series of new recommendations will be enough?

Mr. Jan-Philipp Albrecht MEP (Germany Green Party):

I think it has to be more at the moment, because we have seen in between the last 5-6 years that we come forward with police and justice co-operation, we come forward with accepting measures, co-operating and so on, **but where we are not coming forward is to implementing really common standards. And this is a problem which individuals and citizens can see around them and which they are concerned of.** They really think about and we have to have that.

And I don't think it is about Euro-scepticism, it's really about people thinking about their own values and about their own rights. And sometimes people are really concerned.

BBC Anchor interviewer:

Thanks very much. And on that note we'll leave it there.

- End -

More information on the unfair EAW and the ever growing undemocratic drive of the European Union in the website of the **UKIP (UK Independence Party)** <http://www.ukip.org/>

and the **UKIP website of MEPs** <http://www.ukipmeps.org/>