

European Arrest Warrant – refusal by one country ignored by another: case of Dutchman Peter Tabbers

Yet another case has come to light that undermines the principle of mutual trust on which the whole EAW system is supposedly based. It is similar to that of our client Deborah Dark. Like Deborah, Dutch national Peter Tabbers had to go through months of needless anxiety and frustration and incur massive legal fees. He was the victim of mistaken identity – a simple error during police investigations ended up ruining his life for over a year because of the arbitrary and inflexible way the EAW system works.

Background

In 2003 a Greek man was defrauded. He was offered a big cash prize in a (non-existent) internet lottery and was conned into paying money to the organisers. He reported the scam and the Greek authorities investigated. In 2006, they sought assistance from the Dutch authorities, requesting information about a fax number. The Dutch authorities told Greece that the number belonged to Mr Tabbers. Later investigations showed that at the time of the scam (2003), the number was not being used: it was only allocated to Mr Tabbers in 2005.

But in the meantime, the Greek authorities had issued an EAW against Mr Tabbers, solely on the basis of the telephone number. He first became aware of the EAW when he was arrested in January 2007. He spent three days in custody and was told he would be surrendered to Greece. He was then transferred from his home town to the court in Amsterdam. The court granted him bail as the evidence showed it was highly unlikely that he had been involved. But he was ordered to re-appear before the court. He needed to hire a Greek lawyer to assist with his challenge to extradition. This cost him tens of thousands of euros and he had to pay the costs himself.

The Criminal District Court of Amsterdam gave its decision on 6 April 2007. It held that there had been an obvious error and refused the extradition. The Court forwarded its decision, giving extensive reasons, to the Greek authorities, asking them to withdraw the EAW. Several similar requests were made via Eurojust. However, the Greek authorities refused to comply until January 2008, following pressure from Dutch and European Parliament MPs.

Root cause - and solution

The problem is that the EU Framework Decision introducing the EAW system is silent on what should happen when the receiving state refuses, on proper grounds, to execute the EAW. This means people are at risk of being arrested wherever they go, being put through endless ordeals of foreign detention, unfamiliar legal proceedings, the cost of hiring lawyers and interpreters, and the risk of long separations from family and employment.

The problem can only be resolved by amending the Framework Decision, either by cancelling automatically an EAW a receiving state has legally refused to execute, or by imposing a duty on the issuing state to respond quickly and appropriately to such a refusal and to pay compensation to victims if it fails to do so. We have called on the UK government and the European Commission to focus on this problem and introduce the necessary protections. We will continue to campaign for change.

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