

The European Arrest Warrant – Fraught with Problems

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His colleague has warned me in advance: he always takes a long time to write these dedications. I take a look around the embassy's conference room. The shutters and the curtains are almost completely shut on this afternoon in London. Nature photographs showing snakes and crocodiles on the walls; a bookcase filled with hardbacks; a stand holding the Ecuadorian flag.

Julian Assange is writing a book inscription for Edward Snowden, whom I am due to meet shortly afterwards. Assange looks worse than he did a year or two ago. The way people do when they have had hardly any sun, fresh air or movement for over two years. Like in prison. In their latest submissions Assange's lawyers have put forward the plausible argument that his situation is legally akin to imprisonment.

But the Swedish judiciary remains unmoved. It is clear that state prosecutors are making no effort to move forward with the preliminary investigation against Assange. The key concern is to gather testimony from him for the ongoing criminal proceedings. He has repeatedly offered to provide this, whether in the form of a hearing in the Ecuadorian embassy or through other means. As long as it's not in Sweden, where Assange fears he would be extradited to the USA. But the Swedes have turned down the offer.

I tell Assange about the action that we as European criminal defenders are taking against the European arrest warrant. This instrument, which is fraught with problems, was introduced as part of the many anti-terror measures brought in after 11th September 2001. The warrant makes it easier to transfer suspects and convicted persons within the European Union without the complex review process required for a formal extradition. Legislatures took advantage of the political climate and sold the arrest warrant to the public as a counter-terrorism measure. But over the past years the warrant has been used in numerous cases of serious and less serious crimes with no link to terrorism.

States in the EU make glad and frequent use of this simplified extradition arrangement. By doing so, however, they ensure that the idea of a united Europe – “an area of freedom, security and justice” as it is described in EU treaties – remains a fiction. The process is only simple for the prosecutors, not for those affected or their lawyers. A person facing arrest who doesn't have access to extensive funds will find it near to impossible to hire defense lawyers in the two or sometimes more states involved. And even if they do get that far, their lawyers will have a very difficult task in accessing the information needed to organize the defense.

The warrant process sees the dismantling of borders and obstacles between the states to allow for better cooperation between authorities. For those affected, however, being brought before a court as non-nationals in a foreign country presents a whole range of difficulties: they are often considered to be a flight risk and denied bail. Other problems can arise, as for Assange, with prosecution authorities refusing to travel from Stockholm to London to gather testimony.

Assange's book, *When Google meets WikiLeaks*, which he gives to me to pass on to Edward Snowden, describes a slightly surreal meeting between Assange and Google bosses Eric Schmidt and Jared Cohen during Assange's house arrest at a country home in Norfolk, England in June 2011. Assange subsequently criticized Schmidt and Cohen in the *New York Times* for their book *The New Digital Age* and in particular for the personnel and ideology overlaps between Google and the State Department. Assange accuses them of applying double standards: the Google heads welcome social networks and leaks as long as any leaks involve regimes whose downfall would be convenient for US foreign policy. Meanwhile, whistleblowers and dissidents at home are faced with prosecution and drastic sentences, even in cases where, as with Chelsea Manning, the information they leak leads to the uncovering of crimes.