

24 SEPTEMBER 2020 | VIRTUAL CONFERENCE | INVITATION

The European Arrest Warrant: Current Challenges and the Way Forward

hosted by the German Federal Ministry of Justice and Consumer Protection

Is the EAW a success story or in dire need of reform? What are the major challenges and what are feasible solutions? How do we deal with poor detention conditions and rule of law concerns in the issuing state? What is the (remaining) role for the public prosecutors in EAW surrender procedures? Are the requested person's procedural rights and legal remedies sufficiently guaranteed? How can we implement the ECJ's Petruhin judgment in practice? What are the lessons learned from the Covid-19 pandemic?

These and other issues are already being discussed at the European level. As part of Germany's EU Council Presidency, we are hosting a **virtual EAW conference on 24 September 2020** which will address current challenges and possible solutions through an exchange of ideas among 100 experts from EU Member States and EU institutions, as well as legal practitioners and legal scholars. At the core of the conference, four sets of current challenges will be discussed in four parallel working groups. The findings of the conference will be published in a report that is intended to make a contribution to the ongoing discussion on the future of the EAW.

For more details, please find attached a **programme** and a **concept note** of the event as well as some **background information** on our speakers and moderators.

We cordially invite you to attend. To do so, please register here by **11 September 2020**. The number of participants will be limited.

Please note: The items on the programme that are held in the virtual plenary will be translated into German, French and English. The working language of the working groups is English only. In order to allow for a constructive discussion in the virtual workings groups, the number of participants per working group is limited to a maximum of 25 persons.

[Registration >](#)



Federal Ministry
of Justice and
Consumer Protection



This conference was funded by
the European Union's
Justice Programme (2014-2020)

24 SEPTEMBER 2020 | VIRTUAL CONFERENCE | PROGRAMME

The European Arrest Warrant: Current Challenges and the Way Forward

- 09:00  **Opening of the Conference**
Moderator: **Dr. Ralf Riegel**, Head of Division for International Criminal Law,
Federal Ministry of Justice and Consumer Protection, Germany
-  **Welcome Address by Christine Lambrecht**, Federal Minister of Justice and
Consumer Protection, Germany
- 09:15  **“The Commission’s perspective on the implementation of the FD EAW and
current developments”**
Speech by Didier Reynders, European Commissioner for Justice and Consumers
The speech will be followed by a Q&A session.
- 09:40  **Introduction of the Working Groups**
Moderator: **Dr. Ralf Riegel**, Head of Division for International Criminal Law,
Federal Ministry of Justice and Consumer Protection, Germany

Virtual Coffee Break & Transition to Working Groups

10:15–
12:00 **1st working session of the four working groups**

Working Group 1: Detention conditions in the issuing Member State as a ground for non-execution of the EAW



Moderator: **Dr. Matylda Pogorzelska**, EU Agency for Fundamental Rights, Austria
Expert speaker: **Prof. Anne Weyembergh**, Université Libre de Bruxelles, Belgium

Working Group 2: Concerns regarding the rule of law in the issuing Member State as a ground for non-execution of the EAW



Moderator: **Joana Gomes Ferreira**, Prosecutor, Portugal
Expert speaker: **PD Dr. Frank Zimmermann**, Goethe-Universität Frankfurt
am Main, Germany

Working Group 3: The procedure for issuing and deciding on the execution of the EAW



Moderator: **Prof. Dr. Holger Matt**, Defence attorney, Germany

Expert speaker: **Lea Dukič Japelj**, Judge, Slovenia

Working Group 4: The decision on the surrender to another Member State/extradition to Third States of own nationals, EU citizens and persons residing in the executing State



Moderator: **Tanja Pavelin**, Ph.D., Judge, Croatia

Expert speaker: **Stefano Maffei**, Ph.D., Università di Parma, Italy

Lunch Break

13:15– 2nd working session of the four working groups

15:00 Guided by the moderators and expert speakers, the participants of the four working groups will resume their discussions in a second working session.

Virtual Coffee Break & Transition to Plenary

15:15 “The impact of the COVID-19 pandemic on judicial cooperation in criminal matters (with a particular focus on the EAW)”



Speech by **Francisco Jiménez-Villarejo**, National Member for Spain at Eurojust

The speech will be followed by a Q&A session.

15:45 The results of the working groups and the way forward

Presentation by the moderators and expert speakers of the working groups.

The presentations will be followed by a Q&A session.

Moderator: **Dr. Ralf Riegel**, Head of Division for International Criminal Law, Federal Ministry of Justice and Consumer Protection, Germany

16:45



Closing remarks by **Dr. Ralf Riegel**, Head of Division for International Criminal Law, Federal Ministry of Justice and Consumer Protection, Germany

24 SEPTEMBER 2020 | VIRTUAL CONFERENCE | CONCEPT NOTE

The European Arrest Warrant: Current Challenges and the Way Forward

The Framework Decision on the European Arrest Warrant has been successfully applied in the Member States of the European Union for over 15 years. In recent years, several issues have emerged that weaken mutual trust and create obstacles to the principle of mutual recognition. The legal, political and practical reality in the Member States as well as the case-law of the European Court of Justice present major challenges for the implementation of the Framework Decision and the smooth functioning of EAW surrender procedures. The ongoing 9th round of mutual evaluations in the Council, the Commission's Implementing Report that was published on 2 July 2020 and the own-initiative implementation report that is being prepared by the European Parliament's LIBE Committee form the basis for discussing current challenges and the way forward.

At the virtual conference on 24 September 2020, we want to discuss the challenges detailed below and possible solutions with experts from EU Member States and EU institutions, as well as legal practitioners and legal scholars. The findings of the conference will be published in a report that is intended to make a contribution to the ongoing discussion on the future of the EAW.

The Commission's perspective on the implementation of the FD EAW and current developments

Commissioner Didier Reynders will set the scene for the conference with a speech on the implementation of the Framework Decision on the EAW. We are curious to hear the Commission's perspective on the core issues, current developments and possible avenues for improvements. The presentation will be followed by a short Q&A session. If there are any specific issues that you wish to raise, you may submit questions via e-mail ask-a-question@bmjv.bund.de, preferably before 20 September 2020.

Virtual Working Groups

At the core of the virtual conference, four selected topics (detailed below) will be discussed in parallel working groups of approximately 25 participants each. The discussions in each working group (morning session and afternoon session) will be guided by an expert speaker and a moderator. At the end of the conference, the results of each working group will be presented in the virtual plenary. You will be able to ask questions and make comments via a chat feature. The questions will be answered by the moderators and expert speakers on the spot (if there is enough time) or will be taken into account when preparing the conference report.

Working Group 1: Detention conditions in the issuing Member State as a ground for non-execution of the EAW

The European Court of Justice has recognised that, subject to certain conditions, the executing judicial authority has an obligation to bring the surrender procedure to an end where surrender may result in the requested person being subjected to inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights (cf. ECJ, 5 April 2016, C-404/15 and C-659/15 PPU, Aranyosi and Căldăraru, para. 104 and ECJ, 15 October 2019, C-128/18, Dorobantu, para. 50). In December 2019, the EU Agency for Fundamental Rights (FRA) launched a Criminal Database compiling information on detention conditions in all EU Member States (fra.europa.eu/en/databases/criminal-detention/criminal-detention).

With the participants of the first working group, expert speaker *Prof. Anne Weyembergh* and moderator *Dr. Matylda Pogorzelska* will discuss the practical ramifications of this jurisprudence, as well as current developments and possible solutions.

Working Group 2: Concerns regarding the rule of law in the issuing Member State as a ground for non-execution of the EAW

The EAW surrender procedure established by the Framework Decision is based on a high level of trust between Member States. In turn, this mutual trust is founded on the premise that all Member States meet the requirements of effective judicial protection, which include the independence and impartiality of the criminal courts that will oversee the procedure following the execution of the EAW. Accordingly, the European Court of Justice has held that the existence of a real risk that the requested person will, if surrendered, suffer a breach of his or her fundamental right to a fair trial as guaranteed in Article 47 of the Charter of Fundamental Rights may give rise to a refusal to execute the EAW (ECJ of 25 July 2018, C-216/18 PPU, Minister for Justice and Equality, para. 58, 59). In late July 2020, a Dutch court asked the ECJ to give a preliminary ruling on the question of whether the surrender of a suspected person to a EU Member State should be refused if the courts of that Member State – as a consequence of legislative reforms – can no longer function independently.

Guided by expert speaker *PD Dr. Frank Zimmermann* and moderator *Joana Ferreira*, the second working group will assess the implications of the ECJ's judgment on the EAW surrender procedure, first decisions by national courts and possible recommendations for the future.

Working Group 3: The procedure for issuing and deciding on the execution of the EAW

Expert speaker *Lea Dukič Japelj* and moderator *Prof. Dr. Holger Matt* will chair the third working group and, together with the participants, will analyse a broad variety of questions relating to the procedure for issuing and deciding on the execution of the EAW.

Topics that the working group may pay special attention to include the ECJ's jurisprudence on the independence of the "judicial authority", the issuing of EAWs and the search via SIS, the different stages of the procedure for deciding on the execution of the EAW (e.g. "trial readiness", apprehending the requested person, detention, decision on surrender, surrender procedure) and the procedural rights and legal remedies of the requested person in the issuing/executing Member State.

Working Group 4: The decision on the surrender to another Member State / the extradition to a Third State of own nationals, EU citizens and persons residing in the executing State

The fourth working group, chaired by expert speaker *Stefano Maffei, Ph.D.* and moderator *Tanja Pavelin, Ph.D.*, will work on questions concerning the tension between two fundamental principles: On the one hand, the obligation to avoid impunity by surrendering the prosecuted person to another Member State or a Third State. On the other hand, the duty to protect own nationals, EU citizens and persons residing in the executing State from any measure that unduly restricts their freedom of movement and residence as well as their chances for rehabilitation. In relations between the Member States, the Framework Decision provides certain rules in Articles 4 (6), 5 (3) and 16. In relations with Third States, the ECJ has decided on the question of whether an EU citizen of another Member State can be extradited if an own national under similar circumstances will not be extradited (e.g. ECJ, 6 September 2016, C-182/15, Petruhhin; 10 April 2018, C-191/16 Pisciotti; 13 November 2018, C-247/17 Raugevicius) and will soon decide on the scope of application of the principle of *ne bis in idem* (ECJ, pending case C-505/19 PPU).

The impact of the COVID-19 pandemic on judicial cooperation in criminal matters

To combat the spread of COVID-19, the Member States have adopted a broad variety of measures such as the closure of borders, the suspension of air traffic and rules on physical distancing. *Francisco Jiménez-Villarejo*, National Member for Spain at Eurojust, will inform us about the impact that these measures have had on the operation of EU instruments on judicial cooperation in criminal matters, in particular the EAW. The presentation will be followed by a short Q&A session. If there are any specific issues that you wish to raise, you may submit questions via e-mail ask-a-question@bmjv.bund.de, preferably before 20 September 2020.

The European Arrest Warrant: Current Challenges and the Way Forward



Christine Lambrecht

Federal Minister of Justice and Consumer Protection, Germany

Christine Lambrecht has held the office of German Federal Minister of Justice and Consumer Protection since June 2019. She completed her law degree in 1995 and has been a Member of the German Bundestag since 1998. Among other positions, she has served as Member of the Bundestag's Council of Elders and as Parliamentary State Secretary at the Federal Ministry of Finance.



Didier Reynders

Commissioner for Justice and Consumers

Didier Reynders has been European Commissioner for Justice and Consumers since 2019. He previously served as Deputy Prime Minister of Belgium and Minister of Foreign and European Affairs, and of Defence. Didier Reynders studied law at the University of Liège and is a lecturer / visiting professor in Liège, Louvain and Bruxelles. He first became a Member of Parliament in 1992 and has since headed various government departments and ministries (including the Ministries of Finance and Foreign Affairs).



Francisco Jiménez-Villarejo

National Member for Spain at Eurojust

Francisco Jiménez-Villarejo joined Eurojust in December 2012 and was Vice-President from October 2013 to November 2016. He began his career as a prosecutor, joining the Prosecution Office of Seville in 1990. After being promoted to the rank of Senior Prosecutor, he worked at the General Prosecution Offices of Majorca (1996–1999), Seville (1999–2001) and Malaga (2001–2012), where he was appointed Delegate of the Anticorruption Prosecution Office in 2006. Specialising in international cooperation in criminal matters, Mr Jiménez-Villarejo was a founding member of the Spanish Prosecutors International Cooperation Network in 2002 and has been a contact point of the European Judicial Network since 2004. Mr Jiménez-Villarejo is a frequent speaker at high-level international seminars and his articles on international cooperation have been published in various books and law journals.



Dr. Matylda Pogorzelska

EU Agency for Fundamental Rights, Austria

Dr. Matylda Pogorzelska is a human rights lawyer, educated in Poland and the UK. She works at the EU Agency for Fundamental Rights and specialises in criminal justice and procedural rights as well as judicial cooperation. Previously she worked as a university teacher and a case-processing lawyer at the European Court of Human Rights.



Prof. Anne Weyembergh

Professor at the Université Libre de Bruxelles, Belgium

Anne Weyembergh is Full Professor at the Université Libre de Bruxelles (ULB) and former President of the Institute for European Studies of the ULB (Sept. 2014–2019). She is Director of the Centre for European Law of the Law Faculty (ULB). She founded and has co-coordinated the European Criminal Law Academic Network (ECLAN: www.eclan.eu) since November 2004. She is Visiting Professor at the College of Europe (Natolin campus). She is a Member of the Académie Royale des Sciences, des Lettres et des Beaux-Arts de Belgique (Classe des Lettres et des Sciences morales et politiques). She has coordinated numerous research projects and in particular is Lead Scientist of the GEM Stones programme (Globalisation, Europe and Multilateralism – Sophistication of the Transnational Order, Networks & European Strategies), Marie Skłodowska-Curie Actions (Grant Agreement No 722826) (2016–2020).



Joana Ferreira

Public Prosecutor, Head of the Department of Judicial Cooperation, central authority for Portugal

Joana Ferreira is a Public Prosecutor and the Head of the Department of Judicial Co-operation at the central authority for Portugal. She is also Contact Point of the EJN, IberRed and Network for CPLP. Joana Ferreira is the former chair and current delegate of the Comité PC-OC (COE), an international lecturer on judicial cooperation and a member of the working group on the EAW.



PD Dr. Frank Zimmermann

Professor at Goethe-Universität in Frankfurt am Main, Germany

PD Dr. Frank Zimmermann gained a doctor of law degree from Ludwig-Maximilians-Universität in Munich in 2013 with a thesis on conflicts of criminal jurisdiction in the European Union. In 2018, he completed his post-doctoral thesis (Habilitation) on exemptions from criminal punishment for political decisions. In 2019, the LMU awarded him the *venia legendi* for criminal law, criminal procedure law, European and international criminal law, economic criminal law as well as comparative criminal law. Since April 2019, he has held a temporary position as professor of criminal law at Goethe-Universität in Frankfurt am Main.



Prof. Dr. Holger Matt

Defence attorney, Germany

Prof. Dr. Holger Matt works as a defence practitioner for individuals and, as counsel and independent expert in the field of criminal law and criminal procedural law, for corporate clients throughout Europe, Canada and the US. In 2006, he was appointed Honorary Professor at Goethe-Universität in Frankfurt am Main and teaches criminal law and criminal procedural law. Since 1999, he has been a member of the Criminal Law Committee of the German Federal Bar. Since 2004: permanent guest of the Criminal Law Committee of the CCBE. 2003–2008: Vice Chairman, 2008–2018: Chairman of the European Criminal Bar Association; 2016–2018: Vice-Chairman of the European Fraud and Compliance Lawyers. Since 2011: Consultation Partner in relation to the European Parliament and Members of the European Parliament. 2012–2019: Member of the ERA Board of Trustees. Since 2018: Member of the European Commission's Expert Group on EU Criminal Law Policy.



Lea Dukič Japelj

Judge, Slovenia

Lea Dukič Japelj has been an investigative judge at the District Court of Koper since 1993. In the last ten years she has been the President of the Section of Investigative Judges at the Slovenian Association of Judges. In 2002 she was appointed as the EJM contact point for the Slovenian Primorska region. In the past few months she has been helping with the preparations for Slovenia's second EU Council Presidency in the latter half of 2021. As an expert for the EAW she has delivered lectures at the EJM Contact Points' Meetings for the EU and Western Balkan region and has attended several meetings at the European Commission.



Tanja Pavelin, Ph.D.

Judge, Croatia

Tanja Pavelin is a criminal court judge at the Zagreb County Court – Criminal Division, Division for Corruption and Organised Crime and War Crimes. She is Head of Division for the case law of the ECHR, ECJ, Supreme Court and Constitutional Court of the Republic of Croatia. As of September 2013, she is European Justice Network contact point and Head of Division for judicial cooperation in criminal matters between EU Member States. She holds a Ph.D., is the co-author of books and numerous articles on the EAW and various aspects of judicial cooperation in criminal matters, and is a regular lecturer and conference-speaker on those topics.



Stefano Maffei, Ph.D.

Lecturer at the University of Parma, Italy

Stefano Maffei (Ph.D. Oxford) is a lecturer in Criminal Procedure at the University of Parma. He has served multiple times as an expert witness in international extradition and EAW cases and is the organiser of an annual advanced seminar on international extradition and the EAW (since 2016). His areas of research are human rights and extradition and he is author of the book “Extradition law and practice” (Europa Law Publishing, 2019).



Dr. Ralf Riegel

Head of Division, Federal Ministry of Justice and Consumer Protection, Germany

Ralf Riegel started his professional career as a lawyer in Bonn. He became a prosecutor in 1996 and a judge in 1999. In 2004 he started working for the German Federal Ministry of Justice and then from 2007 for the Federal Office of Justice in the field of international criminal law. He has been the EJM contact point and member of working groups at EU, CoE and UN levels. Since 2010 he has been Head of Division for International Criminal Law, European and Multilateral Criminal Law Cooperation within the Federal Ministry of Justice and Consumer Protection.