

Summary

Unstoppable development in every area of life which brings an innovative methods, implements and forms has been an inherent part of the evolution of society for a long time now. Accordingly, the field of international judicial cooperation in criminal matters with phased pressure on the integrating procedures within the framework of the European Union, with the development of international relations between the Member States, and with increased rate of criminal activity exceeding the implementation of free movement of persons within the European Union has been made to reflect introduction of new mechanisms. The main task of such mechanisms is repressing organised crime and cross-border criminal activities, and also protection of fundamental rights of individuals who are suspected of committing an offence. One of these mechanisms is the European arrest warrant, relatively new legal instrument to which is my diploma work devoted to. This instrument of criminal law based on the principle of mutual recognitions in criminal matters represents not just a symbol of mutual confidence for the Member States reflecting in their systems of criminal justice, but also some achievement of philosophical purpose in integrating aspects or rather ambitions in the field of judicial cooperation in criminal matters.

It is needed to realize that the European arrest warrant constitutes an instrument which is aimed at imprisonment of a convicted person, therefore it is necessary for a common judicial area of the Member States in the European Union to have created a network of mechanisms which must guarantee the right to a fair trial, because it is this right that constitutes one of the fundamental human rights, and each democratic society should creates the path towards ensuring its protection as possible to the widest possible. Indeed, the very fact which is the protection and respect for fundamental human rights can show us the degree of democracy achieved in individual countries not only within the European Union, but also around the world.

In the light of knowledge on this instrument, which brought me studying and writing my diploma work, I think the European arrest warrant rightly belongs to those instruments that are, and I suppose that they will be for many years an issue of polemics and many scientific discussions not only in the field of constitutional courts in chosen Member States as I pointed out in the chapter devoted to implementation of the Framework Decision in certain Member States, but also in academic discussions in Czech Republic and Slovak Republic. I

think that even if the application of the European arrest warrant by judicial bodies in the field of criminal matters has contributed significantly to the accelerating and making the transfer of sentenced person more efficient in comparison with the traditional extradition procedure mainly due to enhanced direct legal contact within the judiciary to the elimination of administrative phase, but also the reasons for which it is possible to refuse the European arrest warrant, as well as the introduction of strict time limit determining the accomplishment of the European arrest warrant, there are still its weak points, which are proven in the past not only in the transposition into domestic legal order of the Member States, but in my internal opinion, at present they consist in the lack of harmonization and unification of legislation in the field of criminal law in individual contracting states. As I pointed out in my diploma work, the introduction of the 32 categories of offenses in which there is no examination of dual body of the offense, there is often a curious situations in the practice of judicial decision-making authority which in turn means the failure to respect the principles of proportionality and serious encroachment on fundamental human rights of prosecuted person lying in his prosecution, taking into custody and the consecutive imposition of a sentence or protection measures in gross disproportion to the act which the person has committed, and which was the issue of the European arrest warrant. So I think that it is necessary in term of consideration de lege ferenda to make needed step by the Member States, which should be based on the efforts towards the harmonization or maybe only the approximation of not just the definitions of offenses, but also approximation of penalties for the offenses because just this way may get prosecuted person guaranteed the fundamental right to a fair trial by the authorities of the executing state as well as the issuing authority. The European Court of Justice also pointed out in the case C-467/04 Gasparini 176 on the 28 of September 2006 regarding the principle of ne bis in idem and the issue of limitation, the fact that the harmonization of legislation in the area of the limitation between the Member States never happen. That is why I conclude that the purpose of the Member States should be the adoption of a common definition of individual criminal acts, because even though that is admittedly within the Eeuropean Union proclaimed high degree of trust between Member States, there is still a difficulty reflecting in the fact, that each country has its special history, traditions, culture and legal system, and hence a different view on the definition and penalties of offenses.

I consider as necessary to mention in the conclusion of my work the very significant step forward which brought the Framework Decision with itself on the European arrest warrant against the extradition, and that is the consingnment of the nationals. I think this is a quantitative step forward in the field of judicial cooperation on criminal matters, and given the

fact that anyone who has committed a crime, must bear responsibility of his offense, either before the judicial authorities of their country or a foreign country, and therefore should not have the possibility to escape justice to another country and hide there. Although according to my internal opinion, I believe that imprisonment should be done in home country which is known to the offender, the environment in which he grew out, socialized and have loved ones, because these factors I mentioned matter in his re-socialization after the forthcoming period, that is with no doubt.

I strongly believe and hope that I managed to bring so comprehensive topic such as the European arrest warrant nearer to every reader of my diploma work, and if so, I consider the target I have determined as fulfilled. The European arrest warrant is a topic that will resonate in many academic discussions for a very long time and I hope that its shortcomings will be removed in future by common endeavor of the Member States.