European Arrest Warrant: Cases of Injustice

Fair Trials International has worked with many clients who have suffered injustice due to the European Arrest Warrant (EAW). The following is just a small selection. More information on many of these cases can be found at http://www.fairtrials.net/cases/

Wanted for a crime he could not have committed – Edmond Arapi

Edmond Arapi was tried and convicted in his absence of killing Marcello Miguel Espeña Castillo in Genoa, Italy in October 2004. He was given a sentence of 19 years, later reduced to 16 years on appeal. Edmond had no idea that he was wanted for a crime or that the trial even took place. In fact, Edmond hadn’t left the UK at all between the years of 2000 to 2006. On 26 October 2004, the day that Marcello Miguel Espeña Castillo was murdered in Genoa, Edmond was at work at Café Davide in Trentham, and attending classes to gain a chef’s qualification.

Edmond was arrested in June 2009 at Gatwick Airport on a European Arrest Warrant from Italy, while he was on his way back from a family holiday in Albania. It was the first he knew of the charges against him in Italy, which does not automatically guarantee a re-trial for defendants tried in absentia. A British court ordered his extradition on 9 April 2010.

On 15 June 2010, the day his appeal of his extradition order was to be heard at the High Court, Italian authorities decided to withdraw the European Arrest Warrant, admitting that they had sought Edmond in error. They provided information indicating that Edmond’s fingerprints did not match those at the crime scene. Thankfully, this meant that Edmond avoided being separated from his wife and children, including a newborn son, and spending time in an Italian prison awaiting retrial.

Acquitted in 1989, yet British grandmother was still wanted 20 years on – Deborah Dark

In 1989, Deborah Dark was arrested in France on suspicion of drug related offences and held in custody for eight and a half months. Her trial took place later in 1989 and the court acquitted her of all charges. She was released from jail and returned to the UK. The prosecutor appealed against the decision without notifying Deborah or her French lawyer. The appeal was heard in 1990 with no one there to present Deborah’s defence. The court found her guilty and sentenced Deborah to 6 years’ imprisonment. Again, she was not informed that an appeal had taken place, nor notified that her acquittal had been overturned. As far as she was concerned she had been found not guilty of all charges and was free to start rebuilding her life. In April 2005, fifteen years after the conviction on appeal, a European Arrest Warrant was issued by the French authorities for Deborah to be returned to France to serve her sentence.
In 2007, Deborah was arrested at gunpoint in Turkey, while on a package holiday with a friend. The police released her and were unable to explain the reasons for her arrest. Upon her return to the UK, she went to the police station and tried to find out the reasons for her arrest. She was told that she was not subject to an arrest warrant. In 2008 Deborah travelled to Spain to visit her father who had retired there. On trying to return to the UK, she was arrested and taken into custody in Spain, where she faced extradition to France. Deborah refused to consent to the extradition, and was granted an extradition hearing. After one month in custody, the Spanish court refused to extradite Deborah on the grounds of unreasonable delay and the significant passage of time. Deborah was released from prison and took a flight back to the UK. However, her ordeal was not over.

On arrival in the UK, Deborah was arrested again - this time by the British police at Gatwick airport. Once again, she refused to consent to the extradition and was released on bail pending another extradition hearing. The City of Westminster Magistrates’ Court refused the extradition in April 2009.

As there is no provision for the withdrawal of the European Arrest Warrant, Deborah spent years as an effective prisoner in the UK – feeling unable to leave the country due to the risk of being re-arrested on the same European Arrest Warrant. In May 2010, France finally agreed to remove the European Arrest Warrant, but only after Deborah had spent years as an effective prisoner in the UK due to the risk of arrest.

20 year old Briton extradited on evidence obtained by police brutality – Andrew Symeou

Andrew Symeou, a university student of exemplary character with a bright future ahead of him, was on holiday with friends in Zante, Greece in 2007. One night while Andrew was in Zante, another young Briton fell off an unguarded stage in a night-club, tragically dying two days later from his head injury. Andrew insists he was not even in the club at the time – and many witnesses have since confirmed this. He was never sought for questioning at the time, and knew nothing about the incident when he flew home at the end of his holiday.

A year later, he was served with an EAW seeking his extradition to Greece to stand trial for murder. Only during the course of his legal challenge has it emerged that the EAW is based on completely flawed evidence, much of it extracted through the brutal mistreatment of two witnesses who have since retracted their (word-for-word identical) statements. Despite this, in October 2008, the Westminster Magistrates court ordered his extradition to Greece.

Andrew appealed to the High court on the grounds that British courts should refuse to execute a European Arrest Warrant when evidence has been obtained through witness intimidation and police brutality. Unfortunately, the High court refused his appeal and he was extradited to Greece in July 2009. Andrew was held for 10 months in appalling prison conditions before his release on bail. However, he has been unable to leave Greece.

Sadly, Andrew’s trial was adjourned due to the prosecution’s failure to ensure their witnesses had received the court summons to make them aware of the trial date. Andrew has had no opportunity to present his defence case and has been told that his trial will only take place in March 2011, almost four years after the events in question.
**Extradited after a grossly unfair trial – Garry Mann**

Garry Mann, a 51-year-old fireman from Kent, went to Portugal during the Euro 2004 football tournament. On 15 June 2004 while Garry was with friends in a bar in Albufeira, a riot took place in a nearby street. Garry was arrested along with other suspects some 4 hours after the alleged offences. He was tried and convicted, less than 24 hours after his arrest. He had no time to prepare his defence and standards of interpretation at the trial were grossly inadequate. He was convicted following a widely publicised trial in Albufeira and sentenced to two years’ imprisonment on 16 June 2004. On 18 June 2004 he voluntarily agreed to be deported and was told that, provided he did not return to Portugal for a year, he would not have to serve his sentence.

Back in the UK, Garry tried unsuccessfully to appeal his conviction. In October 2004 he lodged an appeal to the Constitutional Court in Lisbon but heard nothing from the Court. Separately, the Metropolitan police applied for a worldwide football banning order against Garry, but in 2005 the Court held he had been denied a fair trial in Portugal and refused the order. Garry was astonished when he was arrested on a European Arrest Warrant, alleging he was wanted in Portugal to serve a two year prison sentence. In August 2009 a British court ordered his extradition to Portugal. Garry appealed against this decision to the UK’s High Court in March 2010. Lord Justice Moses described the case as an "embarrassment" and said: "If there was a case for mediation or grown up people getting their heads together then this is it." The judge said that new evidence from the Foreign and Commonwealth Office "lends force to his belief that a serious injustice" had been committed against Mr Mann. Despite this there were no grounds upon which to refuse Garry’s extradition and he was surrendered to prison in Portugal in May 2010, where he remains today.

**Extradited yet not charged – Turner and McGoldrick**

Hungarian authorities sought the extradition of Michael Turner, a 27 year old British national from Dorset, and business partner Jason McGoldrick (37), following the failure of their business venture in Budapest.

Michael was extradited to Hungary under a European Arrest Warrant on 2 November 2009 and was held in prison for four months, during which time he was interviewed only once by police. He was released from jail on 26 February 2010 and was allowed to return to the UK, but was requested to return for further police interviews in April.

The European Arrest Warrant is intended to be used to extradite people to serve a prison sentence or for the purposes of a criminal prosecution. Fair Trials International is concerned that, in Michael’s case, an extradition took place even though no decision had yet been made to prosecute him. Hungary’s investigation is still ongoing with charges neither brought nor dropped against Michael.

The Arrest Warrant was used improperly in this case, to extradite Michael and Jason while the investigation into the failed business was still ongoing, subjecting them to four unnecessary months in prison in extremely difficult conditions. This is not uncommon and
yet there no clear right of compensation or financial penalty against countries abusing the EAW system in this way.

**Warrant issued after police brutality – Yarrow and Tonge**

Michael Tonge and Lee Yarrow were arrested on holiday in Crete in 1999 after a nightclub fight in which Michael sustained injuries. Lee was released from police custody after 4 days but Michael was held on remand for 4 months, during which he was beaten, kicked, flogged with a rope and denied food and medical treatment. He was then released and came back to England, only for both men to be arrested on European Arrest Warrants in 2005, with no explanation for the delay. At their eventual trial in Greece, charges were dropped against Lee. Michael was convicted of assault, served a short sentence in Greece and was released and returned to the UK in August 2007. Once again, an EAW was executed despite serious police misconduct and abuse and following unreasonable delay.

**UN called their trial unfair, but brothers extradited anyway – Michael and Brian Hill**

In 1997 the Human Rights Committee of the United Nations reported that Michael and Brian Hill had been denied a fair trial in Spain following their arrest in 1985 and were entitled to a remedy “entailing compensation” as a result. But Spain failed to comply with this ruling. Instead, it issued a European Arrest Warrant seeking the brothers’ extradition to Spain. In October 2005, Michael Hill was arrested in Portugal and extradited to Spain where he served 7 months for breach of parole conditions. They had already served three years in prison in Spain.

**Disproportionate use of the European Arrest Warrant – Patrick Connor**

Patrick Connor (not his real name) was just 18 when he went on holiday to Spain with two friends. While there, all three were arrested in connection with counterfeit euros. Patrick himself had no counterfeit currency on him or in his belongings when arrested and has no idea how the notes came to be on his two friends and in their rented apartment – in total, the police found 100 euros in two notes of 50. The boys were held in a cell for three nights. On the fourth day they appeared in court and had a hearing lasting less than an hour, at the end of which they were told they were free to leave but might receive a letter from the authorities later.

They returned to the UK and heard no more about it until four years later when, as Patrick was studying in his room at university, officers from the Serious Organized Crime Agency arrested him on a European Arrest Warrant. Patrick was extradited to Spain and held on remand in a maximum security prison in Madrid. Other inmates told him he might be in prison for up to two years waiting for a trial. Under immense pressure and fearing for his future, he decided to plead guilty, even though several grounds of defence were available and he would have preferred to fight the case on home ground, on bail, and with a good lawyer he could communicate with in English. None of this was possible, and he ended up spending 9 weeks in prison before coming home to commence his university career, his future blighted by a criminal record.
This is an example of how EAWs are being issued in a disproportionate way, wasteful of costs and having an unduly harsh effect on individuals’ personal lives.

Fair Trials International has serious concerns about the injustices resulting from Europe’s fast-track extradition system.

To learn more, click here.