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Improving Judicial Cooperation in Criminal Matters in the area of Freedom, Security and Justice. Institutional Processes and Topical Areas



Case study

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Case study

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Mr K., a British national was born in 1956 and lives in England with his wife and two children (born in 1999 and 2006). He only speaks English, his mother tongue.

I. Issuing of EAWs

France



John Speed (1542–1629)

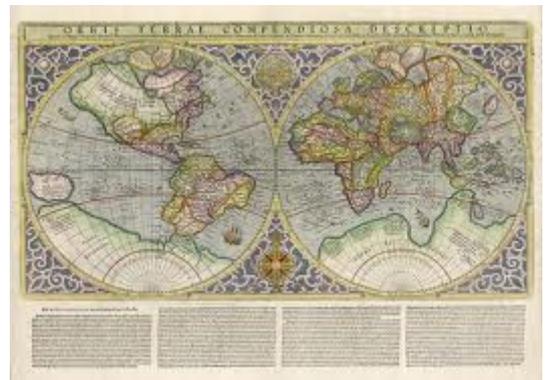
In October 1999 and September 2000 in the French national library Mr K. consulted the books of John Speed, an English historian and cartographer. Allegedly, Mr K. removed several valuable maps from those books and stole them. The library reported the case to the police on 15 March 2001.

On 15 February 2007 a Paris court convicted — *in absentia* — Mr K. of the offence of theft and sentenced him to 3 years' imprisonment. On the same day the court issued an 'executing' EAW with a guarantee to reopen the case [see Article 4a(1)(d)].

Hungary

In August 2000, Mr K. entered the national library in Budapest and defaced several 17th Century valuable atlases, cut out 8 map sections and stole them. The value of the images taken from the atlases was assessed at approximately £ 42,000 and the combined value of the mutilated atlases at approximately £ 470,000. Criminal proceedings were instituted.

On 1 April 2010 — following his identification — the Hungarian 'accusation' EAW was issued.



MERCATOR, Rumold (1545-1599). Orbis Terrae Compendiosa Descriptio. [Duisburg:] 1587

Finland

In February 2001, Mr K. stole six maps belonging to the map collection of the explorer A. E. Nordenskiöld from the University of Helsinki. The total value of the maps stolen was approximately £ 70,000. On 4 September 2001 the Helsinki District Court sentenced him to 18 months' imprisonment, confirmed by the Helsinki Court of Appeal on 31 May 2002. Following the first-instance decision Mr K. returned to the UK.

On 9 December 2009 the competent Finnish judicial authority issued an 'executing' EAW. The Finnish request made clear that under their statute of limitations it was necessary that Mr K. start serving his 18 month sentence of imprisonment before 30 May 2012.



The 1654 Blaeu Atlas of Scotland, Insulae Albion Et Hibernia

II. Execution of the Hungarian EAW by the UK

On 17 September 2010 Mr K. was arrested by the British police on two EAWs (Finnish and Hungarian). On 22 November 2010 his surrender to Hungary was ordered by the City of Westminster Magistrates' Court. He was handed over to the Hungarian police on 8 December 2010.

III. Criminal proceedings in Hungary

On 8 December 2010 Mr K. was charged and questioned by the Hungarian police. Throughout the criminal proceedings he was assisted by a defence counsel of his choice.

On 10 December 2010 the Buda Central District Court ordered his 30-day pre-trial detention. On 4 January 2011 the same court extended the pre-trial detention until 10 April 2011. On 24 March 2011 the prosecution service filed a bill of indictment. On 29 March 2011 the judge hearing the case further extended the pre-trial detention until sentencing.

On 5 July 2011, the Buda Central District Court convicted Mr K. of theft and sentenced him to 16 months' imprisonment. After deducting the period of detention served in the UK arising from the execution of the Hungarian EAW [Article 26(1) of the FD] and the period spent in pre-trial detention in Hungary, on 29 August 2011 he finished serving 2/3 of his sentence and became eligible for release on parole for the remaining 1/3.

IV. Execution of the Finnish EAW by Hungary

Decision to execute the Finnish EAW

On 27 December 2010 the Budapest Regional Court — the competent judicial authority to deal with the execution of EAWs — heard Mr K. His defence counsel had not been informed about the hearing; Mr K. was assisted by a court-appointed defence counsel who did not speak English; a court interpreter was provided, however. Since Mr K. did not consent to surrender [Article 13 of the FD], the court ordered his temporary detention until the arrival of the French and Finnish EAWs [Article 12 of the FD].

In the meantime, the Hungarian central authority obtained the EAWs and forwarded them to the court. On 27 January 2011 the Budapest Regional Court held a hearing [Article 14 of the FD]. The court, confirmed by the Budapest Appeal Court on 4 February 2011, postponed Mr K's surrender [Article 24(1) of the FD] and ordered his detention [Article 12 of the FD] until his surrender to Finland. It specified that he has to be transferred to Finland within 10 days following the last day of his prison sentence or the closing of criminal proceedings against him.

On 29 August 2011 Mr K. was not released on parole since his detention in execution of the Finnish EAW had been ordered on 27 January 2011. In accordance with the 27 January 2011 decision, his transfer to Finland had to take place within 10 days that is until 7 September 2011.

Consent by the British court

On 30 August 2011 the Hungarian central authority requested the British authorities' consent for his onward extradition from Hungary to Finland. Under Article 28 of the FD the British court was required to provide the consent within 30 days. However, in this case the request from Hungary invited the British court to deal with the case as a matter of urgency.

The Hungarian request was dealt with in accordance with sections 56 and 57 of the Extradition Act 2003 [transposing Article 28 of the FD]. Mr K. was not given an opportunity to make representations on the Hungarian request. In fact, the British court's letter of 31 August, faxed to the Hungarian authority on the same day, informing Mr K. of the Hungarian request and advising him of his right to make representations had not been served on Mr K. before 9 September 2011.

On 9 September 2011 the City of Westminster Magistrates' Court — erroneously — issued in accordance with sections 54 and 55 of the Extradition Act 2003 [transposing Article 27 of the FD] an order of consent for other offence(s) being dealt with in Hungary, a Category 1 territory.

Decision to extend detention

On 5 September 2011, the Budapest Regional Court, confirmed by the Budapest Appeal Court on 16 December 2011, extended his detention in view of his surrender and ordered

him to be transferred until 27 September 2011. The Hungarian courts relied on provisions of national legislation transposing Article 23(3) of the FD. The defence counsel's motion for his immediate release, based on Article 23(5) of the FD was turned down.

On 15 September 2011 the Hungarian authorities handed him over to the Finnish authorities.

V. Latest developments

Mr K. is serving his sentence in Finland. It appears that the French authorities have requested his surrender.