

***Bob-Dogi*: CJEU rules Hungarian EAWs invalid**

On 1 June 2016, the Court of Justice in the European Union (CJEU) handed down its judgment in the case of *Bob-Dogi* (C-241/15) regarding Hungarian EAWs. In cases where there is evidence that the requested person has already left the country, Hungary has been implementing a 'simplified procedure' by immediately issuing an EAW that also covers the territory of Hungary and therefore also constitutes a national arrest warrant. However, the CJEU concluded that, where an EAW is based on the existence of an arrest warrant, that warrant must be a separate national arrest warrant rather than the EAW itself.

Facts

The strikingly-named Mr Bob-Dogi was arrested on an EAW in Romania on 2 April 2015 for offences committed in Hungary in November 2013. Allegedly, Mr Bob-Dogi had been driving his lorry at excessive speed and crashed into a moped, causing the rider multiple serious injuries. However, the Romanian court released him on bail asserting that the EAW was not valid as it was not based on a separate national arrest warrant. The issue was referred to the CJEU.

Decision

The CJEU concluded that the Romanian court was correct in its approach for the following reasons:

1. Article 8(1)(c) of the Framework Decision 2002 uses the term 'arrest warrant' as opposed to 'European arrest warrant', which is a defined term and is used systematically elsewhere in the Framework Decision, indicating that the term 'arrest warrant' refers to a warrant other than an EAW.
2. The familiar wording of Box B in the EAW template – 'Decision on which the warrant is based' – also implies that this decision is separate from the decision issuing the EAW.
3. The Framework Decision contains nothing to suggest that the 'simplified procedure' implemented by Hungary is permissible.
4. The term 'arrest warrant' in Article 8(1)(c) cannot be understood in a generic sense, encompassing any type of warrant, as then the EAW would be permitted to refer to itself, thereby robbing Article 8(1)(c) of any practical effect.

5. The Romanian court's interpretation of Article 8(1)(c) follows not only the wording of that provision but its context and the objectives of the Framework Decision.
6. An initial draft of Article 8(1)(c) only required the EAW to state 'whether' there was a final judgment or other enforceable decision, but the final version removes that optional nature, indicating that all EAWs must be based on such a decision.
7. The 'simplified procedure' implemented by Hungary may interfere with the principle of mutual recognition, which is a foundation of the Framework Decision, as the executing judicial authority cannot verify whether the EAW satisfies Article 8(1)(c).
8. The 'simplified procedure' removes the dual level of protection that should be enjoyed by the requested person by the issue of separate warrants.

Implications

Clearly the judgment of the CJEU in *Bob-Dogi* at least raises an issue, under section 2 of the Extradition Act 2003, affecting all Hungarian EAWs issued without a separate national arrest warrant. The case may also have an impact of the UK Supreme Court's upcoming judgment in *Sas*, in which further submissions are due to be provided in the light of the CJEU's decision.