EAW. European Arrest Warrant and medieval despotism to continue under Boris tyranny

3 December 2020 at 18:06

Law and Disorder

ANOTHER GREAT BORIS BETRAYAL

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European Court of Human Rights

As a last-minute surprise, BoJo hands the EU the keys to UK security so Brussels will have total control

Here is the evidence, in The Express, in the Daily Mail and, from the horse's own mouth, here. In a nutshell, yesterday HMG answered Lord Pearson's question as follows:

> *"1 December 2020: There is no intention for extradition to any EU jurisdiction after the end of transition period to be made subject to a court ruling that there is a prima facie case."*

This means that HMG intends the current European Arrest Warrant conditions to be continued, after Brexit, into next year and indefinitely into the future.

Persons named in a Warrant are to be arrested and transported forcibly, in chains, abroad, by order of a foreign Prosecutor which a British judge is bound to obey blindly, despite an admission by one of the originators of the EAW, to a House of Lords Committee, that this formulation was a "misunderstanding" arising from a "mis-translation" from the French (HL62 – 1999) . No evidence needs be shown.

What the UK side still has not grasped is that under continental procedures, arrest and imprisonment is often the first step in an investigation. Only afterwards do the investigators seek evidence.

This can take months or even longer (see below), and meanwhile the "suspect" rots in jail, crammed into a small cell alongside convicted murderers, rapists, mafiosi, etc. with no right to a public hearing and no obligation on the prosecution to produce any evidence during this time.

Why is this important?

In the UK and in other English-speaking jurisdictions, nobody can be arrested and imprisoned for any length of time unless the authorities have already conducted an investigation and collected enough evidence to show that there is a prima facie case to answer. This is guaranteed by our laws on Habeas Corpus, under which a prisoner has a right to a swift public hearing (hours or days after arrest) where s/he can demand that evidence of a prima facie case shall be exhibited. If insufficient evidence is produced, the prisoner must be released and the charge dropped.

This is common sense – without evidence how do we know that the right person has been arrested? And section 38 of Magna Carta provided so, in just 15 words, which have rolled down eight centuries, to protect our freedom from arbitrary state coercion.

Not so in continental Europe, where Habeas Corpus is unknown. And in particular it is not so under the European Convention on Human Rights.

The European Court of Human Rights is on record as having ruled on a case brought by an Italian prisoner against Italy. Luciano Ferrari Bravo was a Law graduate and a Professor (no less!) at Padua University, who, after all his travails, was recognised to be completely innocent and acquitted on all counts. He asked the Court if waiting up to five years in detention, with no public hearing, as he had done, was "reasonable" within the meaning of

public hearing, as he had done, was "reasonable" within the meaning of article 6 of the convention, which specifies a right to a public hearing within a "reasonable" time after arrest. The Court ruled that it was perfectly "reasonable" Why? Because "the proper conduct of [an investigation] is facilitated by the detention", as the Court put it, see it here. The original report is under APPLICATION N° 9627/81 Luciano FERRARI-BRAVO v/ ITALY DECISION of 14 March 1984.

This precedent set by the ECHR is almost unknown in the UK, yet by itself it should be a sufficient reason for the UK to leave the ECHR.

There are other cases too which show that the ECHR is entirely unfit for purpose. Yet HMG has confirmed we stay under it.

In fact under the Napoleonic-inquisitorial systems used in continental Europe, a suspect can be arrested and imprisoned, not at the end of an investigation, but at the outset, on the basis of some clues or even just a hunch by the investigators – there is no swift public hearing where the decision has to be justified by a court that is completely separate from the investigators.

This procedure is also unknown to UK legal academics and practitioners. There has been no research on this by any public or academic body.There is not one Chair of Comparative Criminal Procedure in any Law School anywhere in the UK. The ignorance is total.

Clearly this gives enormous scope for judicial authorities to use their power of violent coercion quite arbitrarily, on spurious accusations, as a political battering-ram against political opponents.

One EU state where this is notoriously used is Romania. The EU has chosen a Romanian prosecutor as its supremo European Public Prosecutor, and she will wield these powers over us.

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This threatens not only the personal freedom of random innocent individual citizens, but our democracy itself.

How disgraceful that HMG has hidden its intention until now! Shame on the senior politicos and journos who knew but didn't tell! All the talk was about fisheries and level playing fields, while this was their secret intention. We are now faced with a fait accompli"