TABLE OF CONTENTS

Pref	ace	V
List	of Abbreviations	XIII
Fore	eword	1
Anto	ónio Vitorino	
Chaj	pter 1	
Intr	oduction	5
Rob	Blekxtoon	
1.	The rationale of the project	5
2.	Some remarks on the changing character of Extradition Law since it	
	was first adopted	7
	a. The system itself	7
	b. The people concerned, the <i>fugitive</i> v. the <i>requested person</i>	9

Part A

General

Chapter	2
---------	---

The	Framework Decision on the European Arrest Warrant and	
Surr	ender Procedures Between Member States of the European Union	13
Mich	ael Plachta and Wouter van Ballegooij	
1.	Introduction	13
2.	Judicial cooperation in criminal matters among the Member States	15
3.	Efforts to improve and modernize extradition within the EU	20
3.1	Introduction	20
3.2	The 1995 Convention on Simplified Extradition Procedure	21
3.3	The 1996 Convention Relating to Extradition	22
3.4	The European Parliament response	24
3.5	Evaluation	25
4.	The Treaty of Amsterdam, developing the Area of Freedom, Security	
	and Justice	26
4.1	Tampere European Council: the principle of mutual recognition of	
	judicial decisions in criminal matters	29
4.2	The Italy – Spain Treaty: a forerunner of the EAW?	30
4.3	The birth of the European Arrest Warrant	32
4.4	Synthesis	36

Chaj	pter 3	
'Ext	radition' Without a Granting Procedure: The Concept of	
'Sur	render'	39
Otto	Lagodny	
A.	The text of the Framework Decision	39
B.	Criteria	41
C.	The point of view of the individual	42
	1. Substantive changes	42
	2. Procedural changes: no granting procedure	43
D.	Evaluation	44
Chap	pter 4	
Pro	cedural Rules	47
Lian	e Ang	
1.	Introduction	47
2.	The most important practical points: competent authority, channel	
	choice, translation	49
3.	The model for the European Arrest Warrant	53
4.	Terms	60
Cha	oter 5	

Chapter 5	
Eurojust and the European Arrest Warrant	63
José Luis Lopes da Mota and Roelof Jan Manschot	

Part B

Special Issues

Chap	pter 6	
The	Principle of Reciprocity	71
Harr	nen van der Wilt	
1.	Introduction	71
2.	Reciprocity and the European Arrest Warrant: substantive issues	74
3.	Procedural aspects of the principle of reciprocity	76
4.	Conclusions	80
Cha	pter 7	
Mut	ual Trust in (European) Extradition Law	83
Selm	na de Groot	
1.	Introduction	83
2.	Mutual trust in Extradition Law	85
3.	Developments in Extradition Law in Europe and mutual trust up until	
	the EAW	88
4.	The European Arrest Warrant and mutual trust	90

4.1	The realization of the Framework Decision	90
4.2	Grounds for refusal under the EAW	91
4.3	The decision to surrender: a shift from the government to the	
	judicial authorities	95
4.4	Has the presumption of mutual trust gained ground under the EAW?	96
5.	Conclusion	96
Chapte	er 8	
The E	uropean Arrest Warrant and the Principle Ne Bis in Idem	99
	en van der Wilt	
1.	Introduction	99
2.	Ne Bis in Idem as a mandatory or optional ground for refusal	101
3.	Ne Bis in Idem on the borderline of different legal orders	103
3.1	Which acts are precluded, in view of <i>ne bis in idem</i> ?	104
3.1.1	-	104
3.1.2	Revision	105
3.1.3	Anrechnungsprinzip	105
3.2	What acts of criminal law enforcement trigger the principle of <i>ne bis</i>	
	in idem? The concept of 'final judgment'	106
3.2.1	Administrative proceedings	107
3.2.2	Preliminary rulings and probation	107
3.2.3	Decisions by the Prosecutor	108
3.3	What is to be understood by 'the same act'?	111
3.3.1	Within the domestic context	111
3.3.2	International context	114
4.	Conclusions	116
C1		
Chapte		110
	cts in Absentia	119
	Krapac	440
I.	Commentary on Article 5 Subparagraph 1	119
1.	The main features of criminal proceedings <i>in absentia</i>	120
2.	Indispensable standards of justice which might turn a conviction <i>in</i>	
	absentia into a ground for denying the surrender of the person sought	123
II.	Trials in the absence of the accused in the criminal procedure of the	
	Republic of Croatia	129
1.	Legal sources	129
2.	Procedural possibilities for completing the criminal proceedings	
	without the trial stage	129
3.	Procedural impact of a trial erroneously held in the absence of the	
	accused	130
4.	Rules for the service of summonses	131
5.	Trials in the absence of the accused	132
6.	Legal preconditions for trials in absentia	133

Chapter 10 **The Double Criminality Requirement** 137 Nico Keijzer 1. Double criminality requirements in general 137 The Framework Decision 2. 139 The general rule: double criminality required 3. 140 3.1 The law of the state of issue 140 3.2 The law of the state where the arrest warrant is meant to be executed 142 3.3 Analogous transformation of the described act 145 3.4 *Ex tunc* or ad nunc 145 3.5 Presumption of lawfulness 146 The exception: categories of crimes 147 4. 4.1 General observations regarding the list 149 4.2 The 32 categories, one by one 152 Act committed in the territory of the requested state 5. 160 Return after sentencing 6. 162

Part C

Implementation and Relation With Other Relevant Legal Instruments

Chaj	pter 11	
The	European Arrest Warrant and the ECHR	167
Paul	l Garlick	
1.	The provisions of the Framework Decision	169
1.1	Mandatory grounds for non-execution of the EAW	170
1.2	Discretionary grounds for non-execution of the EAW	170
1.3	Overarching provisions of the Framework Decision	171
2.	The importance of a right to an effective remedy and rights of the	
	defence	175
2.1	The position in the United Kingdom	176
3.	Conclusion	181
Cha	pter 12	
Exti	adition and Human Rights: A Dutch Perspective	183
Nice	o Keijzer	
1.	The European Convention on Extradition	183
1.1	Human rights respected by the Convention itself	183
1.2	Human rights and extradition procedures	184
1.3	Human rights and extradition obligations	184
1.4	Conflicting obligations	186
1.5	Court or government	187
1.6	Case law	188
1.7	Article 13 ECHR	191
2.	The Framework Decision	192

	pter 13	105
	European Arrest Warrant and Defendants' Rights: An Overview <i>Dine Morgan</i>	195
1.	Introduction	195
1.1	Background to the European Arrest Warrant	195
1.1	Safeguards	190
2.	The ECHR and other instruments	197
2.1	The ECHR	197
2.1	Article 7 TEU	198
2.2	The Vienna Convention on Consular Relations	198
2.3	The JAI safeguard clause	199
2.5	Non-treaty based mechanisms	199
3.	Additional safeguards proposed by the Commission	200
3.1	The proposal for a Framework Decision on certain procedural rights	200
5.1	applying in proceedings in criminal matters throughout the European	
	Union	200
3.2	The Commission's other work on safeguards	200
4.	Safeguards inherent in the European Arrest Warrant itself	203
4.1	Legal aid and interpretation	204
4.2	The ECHR and the European Charter of Fundamental Rights of the	201
	European Union	205
4.3	The speciality rule	206
4.4	Time served to count towards sentence	206
4.5	Time-limit leading to greater certainty	206
4.6	Fewer <i>in absentia</i> trials	207
4.7	Increased prospect of getting bail/reducing the pre-trial prison	207
•••	population	207
4.8	Transfer of decision-making from political (Home Office/Minister of	_0.
	Interior) to judicial sphere (court)	207
5.	Conclusions	208
		-00
Char	pter 14	
	European Arrest Warrant and Transferring Execution of Prison	
	ences	209

Hans Lensing

Part D	
Commentary on an Article By Article Basis	217
Rob Blekxtoon	

Preliminary Remarks Text and Commentary	219 221
Preamble	221
Framework Decision proper	226
Annex	271

Index

279