

The European Arrest Warrant in the Italian legal system Between mutual recognition and mutual fear within the European area of Freedom, Security and Justice

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Abstract

Italy was the last Member State to transpose the Framework Decision on the European Arrest Warrant. The Italian law entered into full force on 14 May 2005, a full sixteen months later than the appointed date. Conversely, whilst the Framework Decision aimed to speed up extradition between Member States, the Italian implementation law seems to complicate things, providing for dozens of new legal obstacles to surrender. In fact, the execution of an EAW in Italy threatens to become something highly unpredictable. The responsibility for this outcome is shared by the national and the European legislator. Perhaps the latter underestimated the seriousness of the conflict between Third Pillar law and domestic constitutional systems which aim to protect their *acquis* in the field of fundamental rights. Considering that many Member States seem to be struggling with similar problems, the first part of this article is devoted to describing the current scenario and analysing possible solutions at the supranational level, such as the establishment of a coherent system regulating the allocation of penal competences among Member States. In the next part, the problem of the Framework Decision's incompatibility with the Italian Constitution will be discussed, and in the final part the Italian implementation law is analysed in more detail.

Keywords

European Arrest Warrant, extradition, Italy, mutual recognition

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