

Dear Arenberg-Coimbra Group Prize

My name is Marie Bakken, and I completed my Masters of Law at the University of Bergen in December 2020. During my studies I decided to spend a year abroad to expand my legal knowledge as well as my understanding of European cooperation. I was lucky enough to spend almost a year in Salamanca in Spain where I took various courses at the Faculty of Law. I spoke some Spanish before I went, but not fluently.

It was challenging to adapt to - and understand - the Spanish legal system as well as the language, but that only made it rewarding when I finally felt like I mastered it.

I have always been interested in politics and international affairs. I find EU law interesting, and I have a strong commitment to human rights.

I took courses in Criminal Law, Human Rights, Immigration Law, Military Law, Criminal Politics and Psychology in Law. But the most interesting course that I took - which also inspired my Masters Thesis - was International Legal Procedural Cooperation. Here we studied the legal framework of the European Arrest Warrant, and how EU countries cooperate to detain and extradite criminal offenders.

I had excellent professors who explained with enthusiasm. They had a way of making the students see the bigger picture, and used the European Arrest Warrant as an illustration of how important mutual trust is in order for the European cooperation to work - in all fields.

One day after class the professor asked me how extradition to EU worked in Norway, since we are not an EU member state. I was embarrassed to admit that I actually didn't know, and it made me curious to find out. I started researching, and it turned out to be quite a complicated question. A perfect topic for a Master's thesis.

Even though Norway is not an EU member we are very closely linked to the Union through various agreements, most importantly the EEA Agreement (The European Economic Area Agreement). Since the European Arrest Warrant not has an economic element, it falls outside the scope of EEA.

Norway was recently linked to the European Arrest Warrant system when the Norwegian Arrest Warrant Act entered into force on 1 November 2019. The Act implements the agreement that Norway (and Iceland) entered into with the EU already in 2006 on extradition procedure for criminal offenders. This agreement is based on the EU framework decision on the European arrest warrant, and includes Norway in the cooperation on the European arrest warrant. The system involves a simplification and streamlining compared to traditional extradition.

The agreement presupposes a high level of trust between the parties, and is based on the belief and prerequisite that human rights are respected in all countries that are bound by the agreement. This leads to an efficient criminal process across Europe, as Europe is becoming increasingly integrated.

Nevertheless, it turns out that trust can be difficult in practice. Within the European Arrest Warrant system, the states have a very limited opportunity to verify and control each other's compliance with human rights. EU rules should ensure a minimum level of protection of human rights throughout the Union, but is there a good enough guarantee that human rights can always be respected in all Member States?

The European arrest warrant system has been criticized, among other things, for uncertainty as to whether Member States can actually guarantee that the wanted person's human rights are being respected. This is linked, among other things, to varying standards of prison conditions in the Member States, and uncertainty as to whether prisoners are not subjected to inhuman and degrading treatment. In addition, recent developments, especially in Poland and Hungary, related to the Rule of Law have led to problems in relation to extradition requests.

The Norwegian Supreme Court recently addressed the issue of extradition to Poland in two different cases, stating in both cases that extradition would be in conflict with Article 6 of the ECHR on the right to a fair trial, in light of the lack of independence of the judiciary and the prosecution in Poland. The Supreme Court Appeals Committee nevertheless concluded that the conditions for extradition had been met and that Article 6 of the ECHR in these specific cases did not preclude extradition.

On the other hand, there have been decisions from both the Netherlands and Germany which conclude that extradition to Poland cannot be carried out due to a lack of independence in the courts. Recently, a Dutch court also issued a general statement on the temporary suspension of all extradition to Poland.

This shows how trust is problematic in practice, and also how two European instruments for cooperation is in conflict.

Throughout the whole process of writing my thesis, I used my notes and experiences from Salamanca as background and inspiration, and it was a very valuable perspective.

During my time as a student I encouraged international cooperation through work in an organization called ELSA (The European Law Students' Association), and got to attend meeting all across Europe, and experience different legal cultures and meet wonderful people that will be part of my life forever.

Now - after completing my studies - I continue to work with EU law and human rights as a legal advisor in the municipal administration in Stavanger.