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Fact Check: could someone be extradited without evidence under the European Arrest Warrant?

It is unlikely someone would be extradited without evidence under a European Arrest Warrant (EAW) as EAW's cannot be used for merely investigative purposes. EAW's are issued to arrest persons where evidence received by investigators leads to reasonable suspicion the named person has committed an offence and that particular offence exists in both the country issuing the EAW and the country receiving it.

EAW is a legislative success coming out of the Justice & Home Affairs Council. It is a quick, economic and effective method of extradition between the EU Member States replacing separate extradition agreements that previously existed between them. EAW's are not what Euro-sceptics would have us believe, another piece of 'foreign' criminal procedure imposed on the UK, it is a UK initiative. In 1998 the UK proposed the EAW on the assumption by promoting mutual recognition of judicial decisions, further intervention from EU institutions in the area of criminal procedure could be avoided. Through the EU Framework Decision 2002/548/JHA the EAW was included into UK via the Extradition Act 2003.

Key points to EAW's includes the fact it relates to serious crime and terrorism related offences. Providing a better safeguard it is a judicial authority, meaning it is judges who scrutinise the grounds for the request not politicians. The person named in the EAW can appeal to the court in the state they are in against the EAW extradition. A UK example of this is Julian Assange who through the UK courts appealed against his extradition to Sweden to face allegations of sexual offences. His protracted court procedure failed and he is currently in the Ecuadorian Embassy in London. If there is likely to be a lengthy pre-trial procedure a European Supervisory Order can be obtained allowing outsourced supervision of the suspect to their home state until the trial commences.

The UK frequently applies for EAW's. In 2015 the UK requested 228 EAW's leading to the arrest of 150 with 121 surrendering due to the EAW. In 2015/16 the UK received 14,279 EAW requests where 2,152 were arrested with 1271 of those surrendering to the EAW. Over 90% of those arrested in the UK under an EAW were non-UK citizens. Important cases where the EAW was a key to bringing offenders to justice included the teacher Jeremy Forrest who fled to France in 2012 with a schoolgirl in 2012 the fugitive terrorist Hussain Osman who in 2009 fled to Italy and in 2012 Jason McKay who committed murder and fled to Poland.

Regarding the effectiveness of EAW's one should look beyond the political soundbite and consider the facts. If the UK pulls out of the EAW it will have to revert to expensive and lengthy procedures laid out in 1957 European Convention on Extradition based on political decisions not judicial ones, especially if the UK cannot agree to bi-lateral agreements. The UK policing agencies would benefit remaining in the being in the EAW system