

UK parliament backs anti-democratic European Arrest Warrant

Julie Hyland**13 November 2014**

Britain's parliament has voted to opt back into the European Arrest Warrant (EAW).

The EAW, which was established by a European Union (EU) framework decision in 2002 and came into effect in the UK on January 1, 2004, was introduced as part of the "war on terror". It replaces separate extradition arrangements between member states of the EU. Any national authority can issue the EU warrant demanding the extradition of a suspect to its jurisdiction without charge.

Under the Lisbon Treaty, Britain was able to opt out of aspects of EU Justice and Home Affairs measures. Last year, the Conservative-led coalition notified the European Commission that it intended to opt out of 130 related matters on the grounds that they contained "no clear purpose". But it stipulated that it intended to sign back up to 35 measures on grounds of Britain's "national interest".

The EAW was the centrepiece of legislation the government supported, which also included measures covering the Foreign Intelligence Unit, the European Criminal Records Information System and the Prisoner Transfer Framework.

However, the parliamentary vote was held against the backdrop of deepening divisions within the Conservative Party. The Tories have lost a string of by-elections to the anti-EU United Kingdom Independence Party (UKIP). They stand to lose another by-election in Rochester and Strood, on November 20, which was forced by the defection of Tory MP Mark Reckless to UKIP.

With some Tory backbenchers signaling unease over the political fall-out of the opt-in, Prime Minister David Cameron and Home Secretary Theresa May had promised that parliament would be allowed a thorough discussion and vote on the EAW, which they claimed

was critical for ensuring "law and order" in Britain. After a political rebellion in the Tory ranks was averted, the EAW was expected to pass smoothly, especially given the overwhelming support of Labour and the Tories' coalition partners, the Liberal Democrats.

In the event, only hours before Monday's debate, it turned out that MPs were to vote only on secondary legislation, covering just 11 of the 35 measures the government wanted to sign back in on. The EAW was not among them. While May claimed that the vote would apply to the warrant, John Bercow, speaker for the House of Commons, asserted that "disinterested experts" had said the vote would not cover the EAW and suggested that government efforts to avoid a vote would be seen by the "people outside of the house [the House of Commons]" as "frankly contemptuous".

Cameron was addressing the Lord Mayor's banquet that evening, the prestigious annual gathering of representatives from the City of London. Meanwhile, in parliament, leading anti-EU Tory MPs were charging the prime minister with flouting democratic norms, with Jacob Rees-Mogg accusing the government of "tyranny" by attempting to force a vote by subterfuge.

Informed that he faced a possible defeat, Cameron rushed from the banquet to parliament still dressed in a white tie. Other senior Tories were urgently summoned to the House.

Media reports described the resulting scene in parliament as a "farce", but the debate always had that character. Few but the most intransigent Tory Eurosceptics were ever prepared to vote down the EAW. In fact, its draconian character endears it to Britain's ruling elite.

Britain signed up to the EAW at the same time as it agreed to an extradition treaty with Washington. Both

agreements abolish the requirement that the petitioning state provide *prima facie* evidence of a crime.

More than 1,000 EAWs are issued each month, only a handful of which have anything to do with potential “terror” charges. Most are issued for the most trivial offences—such as overdue bank charges and fines—and many of those extradited face months in prison without charge.

The real purpose of the EAW is made plain in the case of WikiLeaks founder Julian Assange, now nearing his third year of asylum in the Ecuadorian embassy in London, under 24-hour guard. Assange was first arrested in London on December 7, 2010, under an EAW issued by Sweden on trumped-up allegations of rape. The purpose was to extradite Assange to Sweden, as a precursor to his handover to US authorities.

Denied his most basic democratic rights, Assange appealed to the UK Supreme Court to overturn the EAW against him on the grounds that it had not been issued by the relevant judicial authority. His appeal was vetoed by judges, forcing him to seek asylum in the Ecuadorian embassy [<http://www.wsws.org/en/articles/2012/05/assa-m31.html>]

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The Labour government under Tony Blair first signed up to the EAW. To the extent that Labour put up a show in Monday’s parliamentary vote on the issue, it was merely to distract from a growing crisis within the party. There were repeated media claims last week that Labour leader Ed Miliband faces a potential challenge in advance of the May 2015 General Election.

In the end, it was Labour that effectively shut down any discussion on the EAW and ensured its overwhelming passage. With the backing of some Tory Eurosceptics, Labour’s shadow home secretary Yvette Cooper presented a motion to delay the vote so that the government could return with a specific motion naming the EAW. The motion was defeated by 272 votes to 229.

Under parliamentary rules, the defeat of the procedural amendment triggered an immediate vote on the package, which was passed by 464 votes to 38.

Labour has now said it intends to press for a debate and vote on the EAW on November 19, the day before the Rochester and Strood by-election. But Labour has no intention of undermining the extradition treaty.

Cooper said the aim was to ensure that the UK’s continued use of the warrant was put “beyond legal doubt” in the event of future court challenges.

Labour’s strategy for the 2015 general election now rests on exploiting divisions in Tory ranks so the party will further haemorrhage support to UKIP. For their part, Tory Eurosceptics believe that, short of the Conservative Party adopting UKIP policies wholesale, their best option is also to undermine their own party sufficiently that it is forced into an alliance with UKIP. It is this shared goal of bolstering UKIP that saw Labour and Tory Eurosceptics make common cause in the parliamentary debate.

Julian Assange’s fate was not mentioned throughout the proceedings, although it will not be far from the thinking of Britain’s ruling elite. There had been concern that any delay in endorsing the EAW could provide a “loophole” for Assange to insist his arrest warrant was no longer valid. Last year, Kenny Bowie, head of the Home Office’s treaties team, stated that it was “not the intention to have a significant gap between the date on which a decision to opt out would take effect and the UK rejoining measures.... The Government will be working to ensure that the transitional arrangements are such that measures continue to apply to the UK during that period”.

The contempt for democratic rights is by no means confined to the main Westminster parties. The Scottish National Party, which postured as a left alternative in September’s referendum on Scotland’s independence, supports the EAW. In a statement, it condemned the Tories for making a “shambles” of the debate and for jeopardising the continued efficacy of the EAW, which is described as a “concrete example of how Scotland benefits from being in the EU....”

In a statement on the debate by the civil rights group Liberty, Director Sharmishta Chakrabarti managed not to mention Assange in her examples of EAW abuses. “We have never argued that the warrant should be dropped”, she said, calling only for “greater safeguards”.



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