

## Joske Graat: The European Arrest Warrant and EU Citizenship. EU Citizenship in Relation to Foreseeability Problems in the Surrender Procedure<sup>1</sup>

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Judicial cooperation within the European Union (EU) has undergone significant changes over the past two decades, with the European Arrest Warrant (EAW) standing out as one of the most significant creations. The EAW has become a cornerstone of the Area of Freedom, Security, and Justice (AFSJ), designed to facilitate swift and efficient extradition between Member States. However, as with any instrument of such scope and ambition, the EAW has not been without its controversies. A key issue among these is the tension between the operation efficiency it seeks to achieve and the fundamental rights of individuals it impacts, particularly in terms of foreseeability and jurisdictional clarity.

In *The European Arrest Warrant and EU Citizenship: EU Citizenship in Relation to Foreseeability Problems in the Surrender Procedure*, Joske Graat addresses these challenges head-on. Published by Springer in 2022, this book offers a deeply analytical examination of the EAW, placing it within the border context of EU citizenship and fundamental rights. Graat goes beyond the mere legal technicalities; to explore how European legal frameworks interact with and shape the lived experiences of EU citizens. By focusing on foreseeability - the ability of individuals to predict and understand how the law will apply to them - Graat illustrates a critical yet underexplored aspect of the EAW's implementation.

The book is systematically divided into well-structured chapters, each addressing distinct yet interconnected sides of the EAW and its implications for EU citizenship. The introductory chapter sets the stage by outlining the central research questions and the context of the study, particularly the promises made to EU citizens in term of security and justice. Subsequent chapters delve into the

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<sup>1</sup>Joske Graat, *The European Arrest Warrant and EU Citizenship: EU Citizenship in Relation to Foreseeability Problems in the Surrender Procedure* (Springer 2022).

historical evolution of EU citizenship, the principle of mutual recognition, and the specific challenges posed by the EAW framework. Graat's multidisciplinary methodology incorporates legal analysis, comparative studies, and a critical evaluation of case law and legislative instruments.

Key chapters investigate the legality principle enshrined in Articles 47 and 49 of the Charter of Fundamental Rights of the European Union (CFR) and its application to the EAW. Graat's detailed examination of the foreseeability of criminal offences and jurisdictional claims is particularly compelling. By exploring the absence of harmonised EU rules on jurisdiction and forum choices, the author sheds light on the potential for arbitrary decisions that could undermine the rights of EU citizens.

Graat begins by tracing the development of EU citizenship and its integration into the AFSJ. The Treaty of Maastricht-which formally recognized by EU citizenship-and subsequently legal instruments, such as the Treaty of Lisbon, are positioned as milestones in creating a European identity rooted in both rights and obligations. The author emphasizes the dual promises of free movement and security, highlighting how these ideals often clash in practice. The EAW, introduced as a tool to combat cross-border criminality, is analysed within this broader narrative of European integration. One of the book's strengths is its discussion of the principle of mutual recognition, which underpins the EAW framework. Graat explains how this principle, while facilitating efficient judicial cooperation, often fails to accommodate the diversity of national legal systems and the fundamental rights of individuals. This tension sets the stage for the book's critical analysis of the EAW's shortcomings.

A recurring theme in the book is the foreseeability of jurisdictional claims and criminal sanctions. Graat argues that the lack of harmonised rules on jurisdiction in the EU creates significant legal uncertainty for individuals subject to the EAW. The author illustrates this point with hypothetical scenarios and real-world examples, such as cases where multiple jurisdictions claim competence over the same offence. These situations, Graat contends, raises serious questions about compliance with the legality principle, which requires the laws be accessible and foreseeable. This analysis extends to the procedural aspects of the EAW, such as the discretion granted to national authorities in forum decisions. Graat critiques this discretion as potentially arbitrary, emphasizing the need for EU-level rules to resolve conflicts of jurisdiction. The discussion is enriched by references to case law from the Court of Justice of the European Union (CJEU) and national courts, providing a comprehensive view of the legal landscape.

One of the book's highlights is its comparative analysis of national legal systems, focusing on the Netherlands, Germany, and England and Wales. By examining how these jurisdictions implement the EAW, Graat identifies common challenges and divergent approaches. For instance, the author explores the Dutch legal

system's emphasis on fundamental rights, Germany's constitutional prohibition on extraditing nationals, and the United Kingdom's forum bar mechanism. These comparisons not only illustrate the practical implications of the EAW but also highlight the need for greater harmonisation within the EU.

Graat's discussion of intergovernmental and transnational perspectives on the EAW is another notable contribution. The author critiques the intergovernmental approach for prioritizing state interests over individual rights and advocates for a transnational perspective that places EU citizenship at the centre of judicial cooperation. This shift, Graat argues, would align the EAW with the normative goals of the AFSJ, including the protection of fundamental rights and the promotion of free movement.

The concluding chapters offer actionable recommendation for addressing the shortcomings of the EAW framework. Graat proposes the development of EU-level rules on jurisdiction and forum choices to enhance legal certainty and protect fundamental rights. The author also advocates for a transnational legality principle, which would harmonise the interpretation and application of Article 47 and 49 CFR across Member States. These proposals are grounded in a detailed analysis of existing legal instruments and institutional practices, making them both practical and theoretically sound.

Graat's book is characterized by its thorough research, clear writing, and balanced critique. The author's ability to integrate legal theory with practical insights makes the work accessible to a wide audience, including legal scholars, policymakers, and practitioners. The comparative analysis of national legal systems adds depth to the discussion, while the focus on EU citizenship provides a fresh perspective on the EAW's implications.

The book's interdisciplinary approach is another strength. By combining legal analysis with insights from political science and sociology, Graat offers a holistic view of the EAW's role in the AFSJ. This approach not only enhances the book's academic value but also makes it relevant to ongoing policy debates.

While the book is comprehensive, some readers may find the discussion of certain legal concepts, such as the foreseeability principle, to be overly detailed. Additionally, the focus on the EAW's challenges may overshadow its successes, such as its role in facilitating cross-border justice. A more balanced assessment of the EAW's impact could strengthen the book's conclusions.

Joske Graat's *The European Arrest Warrant and EU Citizenship* is a significant contribution to the study of EU law and criminal justice. By critically examining the EAW's implications for fundamental rights and legal certainty, the book sheds light on one of the most pressing challenges facing the AFSJ. Graat's proposals for reform, particularly the call for a transnational legality principle, offer a clear

pathway for aligning the EAW with the EU's normative goals.

This book is an essential read for anyone interested in the intersection of EU citizenship, judicial cooperation, and fundamental rights. It not only advances academic debates but also provides practical insights for policymakers and legal practitioners. In an era of increasing cross-border criminality, Graat's work serves as a timely reminder of the need to balance security with justice in the European legal order.