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Symposium ImprovEAW

Greek report: Grounds for refusal

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MANDATORY

FD EAW	National legislation
3 para 1 - amnesty	MANDATORY
3 para 2 - ne bis in idem	MANDATORY
3 para 3- age of responsibility	MANDATORY

OPTIONAL

FD EAW	National legislation
4 para 1 - double criminality	MANDATORY
4 para 2 - national prosecution for the same act	MANDATORY for nationals
	OPTIONAL for residents
4 para 3 - decision not to prosecute	OPTIONAL
4 para 4 - statute of limitation	MANDATORY
4 para 5 - ne bis third state	OPTIONAL
4 para 6 - undertaking execution	MANDATORY for nationals
	OPTIONAL for residents
4 para 7 - territorial jurisdiction	MANDATORY

GUARANTEES

FD EAW	National legislation
5 para 2 - life imprisonment guarantee	GUARANTEE
5 para 3 - return to serve guarantee	MANDATORY ground for nationals
	GUARANTEE for residents

Optional grounds (and guarantee) as mandatory

- Protect sovereignty (nationals, double criminality)
- Important principles/rules of public order (statute of limitation)
- Lengthy decisions / extensive use of 15 (2)
- Serious difficulties in execution and impact of mutual trust

An example: territorial jurisdiction (Art 4 para 7(i))

- No choice but to refuse!
- Interpretation of territorial jurisdiction – geogr position
- Lenient sentencing regime: defence!
- Greek prosecution not as effective: e.g. human trafficking
BE, Cyber crimes
- Attempts to ‘save’ cases: French case “Thieves in Law”

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Discriminatory position of nationals – Art 4 (6), 5 (3)

- Not aim at discrimination but protection of nationals
- Legislative intention not rehabilitation!
- Consent/triggering by individual is not required – mandatory!
- Non-nationals extra burden: acquire declaration by Ministry – until 2012 but still required sporadically
- Lenient sentencing regime, Art 4 (6) not recognised by other MS!



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