



11th IAP European Regional Conference The Hague 16-18 February 2011

Introductory Presentation by Elizabeth Howe-IAP General Counsel

Explain origins of theme: **The Prosecutor in Europe - tackling cross border issues**

Following our successful Annual Conference in The Hague in September 2010 - when we examined a number of cross border issues for Prosecutors - it seemed like a natural progression to pick up some of those themes as they related specifically to Europe. We also wanted to take a close look at some of the practical tools and instruments that are available to the operational prosecutor who might find himself dealing with a case that extends his sights beyond his own jurisdiction.

In this conference we will look at some of the products available or yet to become available from The European Union as well as other institutions such as The Council of Europe and the Organisation for Security and Cooperation in Europe and also Eurojust, which are designed to assist the pan European criminal justice process to operate more effectively and efficiently. Examples will include The European arrest warrant - regarded by many as a resounding success - but is it? Does it work well in practice? Does it ride roughshod over some arrestees' human rights? What about the proposed European Investigation Order? How will that operate?

Are the tried and tested mutual legal assistance arrangements in Europe still working well? Is there room for improvement?

The Council of Europe Convention on Cyber Crime is the only international instrument on E Crime and the training the IAP has developed, under the auspices of GPEN - reflect many of the convention's components. Is this something that operational prosecutors should be more aware of?

Should we know more about JITs (Joint Investigation Teams)?

Should domestic prosecutors be engaging more with Eurojust? And what about Europol - where does that fit in with local police forces?

As well as having speakers and discussion sessions, we plan to have a topical visit -perhaps to Eurojust or Europol or even the iconic Peace Palace'

In fact we were going to the ICTY-which may not be with us for very much longer-no new cases and to be decommissioned in 2013?

Now going to Special Tribunal for Lebanon

When I started as General Counsel I was astounded by the number of institutions and organisations within Europe -never mind international organisations like the UN-sometimes with overlapping responsibilities and purposes.

The Council of Europe

47 members plus 5 observer states incl USA Canada, Japan-based in Strasbourg-to promote democracy and protect Human Rights and Rule of Law based on ECHR-Parliamentary assembly

European Commission Human Rights and the increasingly controversial European Court of Human Rights

Also Consultative Council of European Prosecutors (CCPE)-established 2005-prepares opinions for European Committee on Crime Problems-and implementation of Recommendation(2000)19 on the role of public prosecution in the criminal justice system.

The Venice Commission is a CoE institution and had produced recommendations concerning the independence of the Judiciary and Prosecution which can be found on the CoE website. IAP President and Danish DPP both members.

One of most important CoE instruments is the Convention on cybercrime-the only international instrument on cybercrime and one that we have drawn on in establishing GPEN(Global Prosecutors E Crime network)-a specialist web based network for cyber crime prosecutors available through the IAP website(leaflets in your bag). We are delighted to welcome Erik Planken Vice Chair of The Council of Europe Cyber-crime committee-who will be speaking on this.

The European Union

27 members and growing originally the European Economic Community for the purposes of promoting trade and economic growth, in 1993 the Maastricht Treaty created the EU-composed of 3 pillars-3rd pillar being 'Justice and Home Affairs'-which includes cooperation in criminal matters. The Lisbon Treaty 2009 has dismantled the pillar structure and supposedly made things more streamlined and transparent. It also controversially introduced the concept of the European Prosecutor which Jorge Espina Ramos from the Fiscal general's office of Spain will tell us about later.

The EU programme on judicial cooperation has been very active, The European Arrest Warrant was introduced in a framework decision in 2002 and is seen generally as a success-covetous eyes are being cast upon it from Asia and Africa. Natasha Collenburg a Public Prosecutor from the International Centre for Legal Assistance in the Netherlands will tell us about the practical aspects of dealing with EAWs in the Netherlands.

Viviane Reding is the European Commissioner for justice and fundamental rights and is very clear about what she wants.

In the pipeline is a roadmap for strengthening the procedural rights of suspected or accused persons in criminal proceedings-including the right to interpretation and translation and access to a lawyer communication when in detention-a 'Letter of Rights'-which has brought on the pains in a number of jurisdictions-perhaps France-and we may hear more of this from Eric Bedos-Deputy Head Prosecutor in Lille-tomorrow..

There are new framework decisions about sexual exploitation of children and child pornography and on prevention and combating of trafficking of human beings and protection of victims. There is a discussion paper on obtaining evidence-from one state to another and to secure its admissibility (-hopefully to speed up the existing MLA process-which Angie Potter UK liaison magistrate in Paris will speak about from her perspective tomorrow).

And very importantly the innovative proposals for a European Investigation order which Stephanie Bosly head of EU Criminal Law Unit in Belgium will speak about-and if time may expand a little on other proposed EU tools. Tomorrow Professor Marlen Dane Head of the

European Division of the Ministry of Justice for Security and Justice in The Netherlands will give her country perspective on these developments
There are many EU financial tools which we shall not touch-to do with money laundering and asset recovery and similar.

Eurojust and Europol are EU supported institutions and we shall be seeing and hearing how Eurojust operates at first hand this afternoon and tomorrow we shall hear from Steven Ryder from Europol
There are also other European Institutions and associations which have been established-many of which go beyond Europe.

The OSCE-Organisation for Security and Cooperation in Europe-56 countries-and based in Vienna-takes a comprehensive view of security from arms control to human rights. They have an Office for Democratic Institutions and Human Rights (ODIHR)in Warsaw and I am currently working with them on ‘Guidelines for Prosecutors in Responding to Hate Crime’.

The OECD-Organisation for Economic Cooperation and Development-has 34 members extending far beyond Europe and is based in Paris. It goes back 50 years and to the reconstruction of Europe after WW11-but now plays a pivotal role in addressing the challenges facing the world economy. It has a particular interest in combating bribery and corruption-and to that extent has relevance for prosecutors.

There will be plenty of time for discussion and tomorrow we shall split you into 3 groups to discuss the practical aspects of these products and come up with some recommendations for the IAP and others to consider