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Datum: 20 juni '07

Betreft: Dossier R. Hörchner

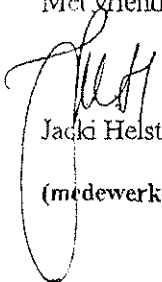
CC:

Spood Ter informatie Uw commentaar a.u.b. Uw antwoord a.u.b.

Geachte heer Korvinus,

Hierbij fax ik u een aanvulling voor het dossier voor de zitting van dinsdag 26 juni a.s.

Met vriendelijke groet,


Jacki Helstone

(medewerker IRC Amsterdam)



20 JUN 2007 15:40

IRC AMSTERDAM +31 20 5416900
The Public Prosecutor's Office to the District Court of Amsterdam

NR. 5970 P. 13/14

Lopie



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Section
Contact
Direct line
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Date
Subject
Your reference
Our reference

Public Prosecutor's Office Amsterdam
Mr. T.E. Korff
+ 31 20 541 1031
t.e.korff@om.nl
18 mei 2007
European Arrest Warrant concerning R. Horchner
III Kop-19/05
OVL-I-2006.026.453

Please state both date
reference number with

Very urgent !!!

Dear Sir Bauk,

With reference to your European Arrest Warrant (EAW) concerning the Dutch's national Robert Hörchner (born on 09/02/1952 in Amsterdam), I hereby inform you that the court in Amsterdam has examined the request for extradition on the 25th of Mai. The court would normally decide upon the admissibility of a European Arrest Warrant in two weeks after the court session. However, in the case of Mr. Hörchner the court has not yet approved the request for extradition. The proceedings have been postponed till the 26th of June due to the fact that the Court has requested additional information.

During the proceedings it has become clear that the Department against organized crime of the Public Prosecutor's office of Bydgoszcz issued a rogatory commission on the 7th of March 2001. This rogatory commission

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23 JUN 2007 15:40

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NR. 5970 P. 14/14

concerns among others the requested person Mr. Hörchner and relates the crime as described in your EAW. The public prosecutor has, among other things, requested the Dutch authorities to determine whether or not Mr. Hörchner was engaged with the Dutch firm called Albo b.v.. Furthermore the public prosecutor has requested a photo of Mr. Hörchner. We only have a translated version of the rogatory commission, which I have attached for your information.

We are presently not sure if the Dutch authorities have carried out this rogatory commission, however this rogatory commission has been submitted by a Dutch public prosecutor in September 2002 in a Dutch criminal case against Mr. Hörchner. Therefore in September 2002 Mr. Hörchner has become aware of the fact that there was an ongoing criminal investigation on his involvement in the cannabis-plantation in Bydgoszcz. However the request for his extradition relating to this offences was issued not until 12 October 2005.

Our court has therefore requested additional information on the elapsed period of time and has drawn up a number of questions in an interlocutory judgement dated the 8th of June 2007. I have attached the translated interlocutory judgement.

Could you be soon kind as to send me your reply on the issues raised by our Court in the interlocutory judgement dated the 8th of June 2007.

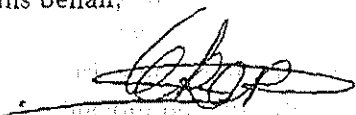
With reference to the interlocutory judgement, could you also clarify Mr. Hörchner's involvement in (the closing of) the agreement to hire the factory building in Bydgoszcz and explain in which way the requested person has been associated with the alleged criminal offence

I kindly ask you to send me the requested additional information as soon as possible, but not later than the 19th of June.

Genuinely thanking you in advantage for your co-operation.

Sincerely yours,

The Public Prosecutor in Amsterdam,
On his behalf,



Ms T.E. Korff (L.L.M.)
Assistant of the Public Prosecutor



To:

Tłumacz Przystępny Języka Angielskiego
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85 791 BYDGÓSZCZ
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Certified English translator and court interpreter

Ewa Ożga, MA, number on the list of translators of the Minister of Justice TP/208/05

Translation of a document issued in Polish language. The document consists of 5 pages.

Page 1 of the document

Files reference number:

I Oz 116/05, III Kop 19/05

Bydgoszcz, June 19, 2007

Your case number: OVL – I – 2006.026.453

Files number at the Public Prosecutor's Office:

13.497.317-2006

Public Prosecutor's Office
for the Regional Court in Amsterdam
Mr. T.E. Korff
P.O. Box 84 500
1080 BN Amsterdam
The Netherlands
Parnassusweg 220-228

Fulfilling Your request pertaining to the European Arrest Warrant as of October 12, 2005, issued as to the suspect Robert Hörchner received by us through the Regional Court in Bydgoszcz, below I submit the information referring to this case You are interested in.

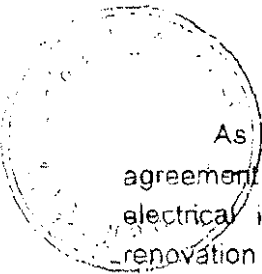
As we have already had the pleasure to point out in the so far correspondence, the Regional Public Prosecutor's Office in Bydgoszcz on 17.04.2000 instituted an investigation in case of the revealed plantation of cannabis in Osielsko by Bydgoszcz. From the expertise of an expert conducted on commission of the public prosecutor's office it results, that on site of the property at Cisowa 3 St. in Osielsko, cannabis were cultivated in order to obtain from them marihuana of high quality. Equipment used in the course of production and apparatuses bore witness to the fact,

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that cultivation of cannabis was professionally organized.

In the course of the proceedings, the tenancy agreement of the production hall in Osielsko at Cisowa 3 Street was secured. From the content of the agreement from July 17, 1999 it results, that it was concluded between Roman Hoffman – the owner of the property and the ALBO B.V. company, represented by Robert Hörchner. Janusz Urbański was the authorized representative of the above mentioned company. The subject matter of the above mentioned agreement was the tenancy of the hall for agrarian production. In the course of the proceedings it was found, that ALBO B.V. company did not apply to the Voivodship Pharmaceutical Inspector in Bydgoszcz for issuing a permit to produce cannabis in Osielsko at Cisowa 3 St.

To:



As it was found in the course of the penal proceedings, after signing of the tenancy agreement, renovation and modernization works of the hall were started. They pertained to electrical installations, modernization of lightning and humidification of rooms. In the renovation and construction works there participated directly Poles employed by Janusz Urbański and two men of Dutch nationality (Antonius van O and a man called Irun). From the depositions of persons interrogated in the capacity of witnesses it results, that Robert Hörchner – as found later on, the partner in business of Janusz Urbański, came several times at the area of the property at Cisowa 3 St. in Osielsko. Robert Hörchner together with Janusz Urbański helped in carrying over the bags with peat, in mounting of worktops for seedlings, stayed in the rooms where places for cultivation of cannabis were prepared. Moreover, other suspects: Artur Jaracz and the Dutch citizen – Antonius van O, whom in the course of the inquisition, the allegation of production and cultivation of narcotic drugs in the form of cannabis, against the provisions of the act on counteracting drug addiction, were presented, pointed at Robert Hörchner and Janusz Urbański as initiators of cultivation of cannabis in Osielsko by Bydgoszcz at Cisowa 3 St.

On the basis of collected evidence, the role of each of the suspects in the alleged offence was established. So, R. Hörchner at the territory of the Netherlands, conducted talks with Antonius van O on the type of equipment that should be installed for marihuana cultivation and persuaded him to make a specialistic installation

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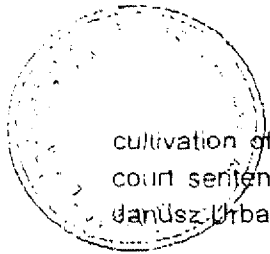
in Poland in a place pointed out by Janusz Urbański at Cisowa 3 St. in Osielsko by Bydgoszcz.

Moreover, contrary to the statements of the prosecuted person, from the testimony of another witness – P. Rygola it results, that the contacts between R. Hörchner and Janusz Urbański were maintained at least till the beginning of 2000, when this witness took to Holland parcels from Janusz Urbański for Robert Hörchner.

On April 4, 2007, Janusz Urbański, the citizen of the Federal Republic of Germany and also of Poland, detained on the basis of the European Arrest Warrant in the Federal Republic of Germany, was passed on to the Polish party. The mentioned person, interrogated at first as a suspect, confessed to charges of cannabis cultivation, against the provisions of the law. Making explanations he said, that cannabis plantation was the initiative of Robert Hörchner, who had financial problems. It was him, who organized the suppliers of the necessary equipment and brought two other Dutchmen to Poland, among others Antonius van O, who supervised installation of the equipment. Moreover, Janusz Urbański said, that the name of the company Albo B.V, that was to be on the agreement of tenancy of the rooms used for cultivation of cannabis, was provided by Robert Hörchner. Explanations made by Janusz Urbański are concurrent with explanations of Antonius van O.

Evidence collected in this case show, that for the opinion of the suspect Robert Hörchner's behaviour and his role in this offence, testimonies of witnesses and explanations of other suspects are of key importance. Albo B.V. company was only a fictitious party to a tenancy agreement of the rooms at Cisowa 3 St. in Osielsko.

As far as the investigative actions conducted in the course of the investigation are concerned, from the moment of sending of the request for granting legal assistance as of March 20, 2001 I may explain, that in reference to other persons connected with the



cultivation of cannabis, the penal proceedings was smoothly conducted and ended with a court sentence. However, due to the fact of hiding of the suspects Robert H6rchner and Janusz Urbański before the Polish law enforcement agencies.

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in order to detain these suspects, national wanted circulars were issued. In reference to Robert H6rchner the wanted circular was issued on 20.07.2000, about what on 24.07.2000 the Consulate of the Kingdom of the Netherlands in Poznań was notified. Implementation of this type of searches with the use of the temporary arrest is the most severe and most efficient manner of detaining perpetrators of offences. It was proper as from the information obtained in this case it resulted, that Robert H6rchner many times crossed in 2001 the borders of Poland in connection with business run by him, so there was a real chance for detaining him during the trial of crossing the border of the Republic of Poland.

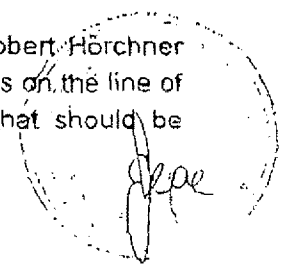
It should be mentioned at the same time, that due to the fact that R. H6rchner is the Dutch citizen, it was not possible to apply for his extradition to Poland by the authorities of the Netherlands. Such opportunities appeared only after introduction to the Polish law of the provisions regulating the procedure of the European Arrest Warrant. Implementation of this institution, after conducting of necessary legislation changes, was only possible after accession of Poland to the European Union, that is from May 2004, and depended also on conducting necessary acts of organizational character. On the other hand, making a motion pertaining to the issuance of the European Arrest Warrant as to a specified person, in this case Robert H6rchner, also required conducting certain controls and collection of many appropriate documents.

It should be stressed at the same time, that according to the provisions of the Polish penal procedure, in the course of the proceedings suspension, it is not possible to carry on proceedings acts if there are no essential grounds for its taking up and further carrying on. In this case, an important obstacle for further carrying on of the investigation was the impossibility of detaining of the convicts J. Urbański and R. H6rchner, who had to be notified on the previously issued decision of levying charges, interrogate them and check the line of defence given by them (in case of not making use by them of the right to refuse to make explanations). These were their explanations made in the case that could result in continuation of the proceedings by checking the presented

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line of defence and the final evaluation of the complete evidence. The remaining investigative acts have been conducted earlier. In Poland it is not possible to accuse by default and judge suspects for the above listed acts.

Referring to the time of opening of the legal proceedings against Robert H6rchner counted from the moment of his taking over to the Polish authorities, it depends on the line of defence presented by the suspect and procedural acts resulting from it that should be performed in our investigation in order to check it. Other acts



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in the case have practically been performed (at present checking of the line of defence of J. Urbański is being finished), so that is why all these efforts in the investigation could be focused on the acts with the participation of Robert Hörchner and persons checking his line of defence. Then the case shall immediately be sent to the local court, that at first shall set time limits of trials in cases in which the defendants are temporarily arrested.

I would like to mention, that statute of limitations of prosecution of the offence charged against Rober Hörchner did not take place.

The legal assistance mentioned by You in the letter, has been realized by the authorities of the Netherlands in May 2001.

Presenting this answer we would like to express our belief, that handing over of Rober Hörchner to Polish court authorities shall be consistent with the terms included in the Frame Decision of the Board of the European Union as of June 13, 2002 on the European Arrest Warrant and the rule of mutual trust to decisions of judicial authorities if other member states of the European Union.

Polish authorities, at their side, also try to ensure mutually within the pointed scope.

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Enjoying the occasion, we would like to thank You for so far efforts made by Your Public prosecutor's Office in our case and we declare providing You with further, necessary information in case of need.

Round seal of the Public Prosecutor's Office in Bydgoszcz, 2, with the national emblem – the eagle – in the middle of the seal.

Oblong stamp: Deputy Regional Public prosecutor, Marek Dydyszko, /-/ illegible signature.

I, Ewa Ozga, MA, certified English translator and court interpreter, do hereby certify making translation of the document and its consistency with the original one issued in Polish language.

Bydgoszcz, June 19, 2007

Repertory no A/195/2007

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