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verz.: Parket van de procureur des Konings te Brussel – Quatre Brasstraat 4 – 1000 Brussel

Excmo. Sr. Magistrado Instructor
M. D. Pablo Liarena Conde
Tribunal Supremo – Sala segunda
Madrid
SPAIN

12/04/2018

MIJN REFERTE
BR.16.150/151/152-18

UW REFERTE
CAUSA ESPECIAL 20907/2017

BIJLAGE KOPIE AAN

Dear Sir,

I have the honour to contact you in the above mentioned cases in application of article 15, 2 of the EU Framework decision 2002/584/JHA of 13 June 2002 on the European arrest warrant.

We received the European arrest warrants issued by your office regarding PUIG GORDI Lluís; COMIN OLIVERES Antoni and SERRET ALEU Maria Meritxell in good order. The proceedings as laid down by Belgian law are ongoing.

However, in order to allow us to interpret the EAW's correctly, I deem it necessary to ask you some clarifications.

No underlying national arrest warrant has been mentioned in the EAW's. These refer to a document called "Auto de procesamiento" of March 21, 2018. On page 69 of that document, it is stated that the national arrest warrants, as delivered by the instructing judge of the Audiencia nacional on November 3, 2017, are confirmed.

Upon our question, the Spanish magistrate at Eurojust informed us that, indeed, these national warrants of 2017 are to be considered as being the underlying legal basis for the EAW's. Can you confirm this point of view ?

The text of the EAW's indeed is quite different from the national ones. They are in fact not compatible at all, which raises significant questions in the light of the European Court of Justice's Bob-Dogi case-law (C-241/15 of June 1, 2016).

A second issue that is of great concern to us, is the scope of the requested surrender.