

Arrondissementsparket Amsterdam

Internationaal Rechtshulp Centrum Amsterdam

Politie Amsterdam-Amstelland en Gooi & Vechtstreek



Postadres van het IRC: Postbus 54500, 1080 BN Amsterdam

Per post en per telefax

Korvinus Abeln Advocaten  
t.a.v. de heer mr. C.F. Korvinus  
Emmalaan 23  
1075 AT Amsterdam

fax: 020-6626606

Bezoekadres

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Toren A/B  
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Onderdeel  
Contactpersoon  
Doorkiesnummer(s)  
Ons kenmerk  
Uw kenmerk  
Datum  
Onderwerp

IRC Amsterdam  
Mw. Mr. T. Korff  
+31 (0)20 - 541 1031  
13.497317-06  
20070228/sol cfk/avk  
14 mei 2007  
Hörchner- Overlevering

Bij beantwoording de  
datum en ons kenmerk  
vermelden.

Geachte heer Korvinus,

Hierbij doe ik u toekomen de aanvullende informatie betreffende het Europees Aanhoudingbevel d.d. 12 oktober 2005 inzake uw cliënt Robert Hörchner. Mijn verzoek om aanvullende informatie heb ik eveneens bijgevoegd.

Hoogachtend,  
Officier van Justitie,  
namens deze,

Mr T.E. Korff  
Parketsecretaris Internationale Rechtshulp



Het IRC heeft tevens andere bezoekadressen:

Regiopollie Amsterdam-Amstelland	Regiopollie Gooi & Vechtstreek
Elisabethgracht 117, kamer 3.10	Grotest 89
1016 TT Amsterdam	1111 EA Hilversum
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The Public Prosecutor's Office to the District Court of Amsterdam

## IRC Amsterdam

Police Amsterdam-Amstelland, Gooi & Vechtstreek

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Section  
Contact  
Direct line  
E-mail  
Date  
Subject  
Your reference  
Our reference

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

Please state both date  
reference number with

Dear Sir Bauk,

With reference to your European Arrest Warrant (EAW) of the 12th of October 2005, concerning the Dutch's national Robert Horchner (born on 09/02/1952 in Amsterdam), I would like to inform you that the requested person was apprehended in the Netherlands on the 19th of March. The Court in Amsterdam will examine the EAW and the courtsession will soon be scheduled. In view of the coming courtsession, I would like to request addition information:

1. Mr. Horchner is a Dutch national. In principle, Dutch nationals can only be surrendered by the Netherlands, providing that the issuing State guarantees that the requested person will be allowed to serve this sentence in the Netherlands, in case that he is sentenced to an unconditional prison sentence after his possible extradition (with reference to section 5, paragraph 3 of the European Framework Decision of 13 June 2002 on the European Arrest Warrant).  
Furthermore, Dutch nationals can only be surrendered by the Netherlands providing that the issuing state permits that the sentence imposed on the requested person can be adapted according to the

Other IRC visitors addresses:

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1211 PA Hilversum  
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procedure for adaptation, laid down in section 11 of the Convention on the Transfer of Sentenced Persons of 21 March 1983. May I request that the aforementioned (complete and double) guarantees be sent to me as soon as possible.

2. Could you specify the role of the requested person in the illicit trafficking and cultivation of the narcotics in Poland in the period of September 1999 till the 14th of April 2000 in more detail and clarify the degree of his participation relating to the above-mentioned offences.
3. Could you furthermore explain how the suspicion towards the requested person arose and has been establishment?
4. It would also be beneficial if you could inform me why the search for Mr. R. Horchner has not been requested until October 2005, especially since the alleged criminal offences occurred around 1999 and 2000.
5. In addition, could you also inform me if any activities or criminal investigations relating to the search of Mr. Horchner have occurred between 1999 till the present. For instance were there any previous (international) notifications or have there been any rogatory commissions in the past?
6. Would you be so kind as to send me a copy of the applicable statutory provisions relating to the criminal offence as described in the above-mentioned EAW. In particular, I would like to request the relevant criminal provisions that indicate that the maximum length of the custodial sentence for this offence amounts to 15 years of detention.

In closing, I kindly request that you send me the requested information accompanied with a Dutch or English translation. Genuinely thanking you in advantage for your co-operation. I kindly ask you to send me the requested additional information as soon as possible, but not later than the 13th of April.

Sincerely yours,

The Public Prosecutor in Amsterdam,  
On his behalf,



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



Certified English translator and court interpreter,  
Ewa Ożga, MA  
Translation of a document consisting of 4 pages, drawn up in Polish language.

Page 1 of the document

Bydgoszcz, April 12, 2007

Oblong stamp:  
Przyrzeczce 2-4 St.  
85-102 Bydgoszcz  
fax number +48 52 74 77 524  
Files reference number: I Oz 116/05

Your files reference number: OVL-I-2006.026.453

Mr. T.E. Korff  
P.O. BOX 84500  
1080BN Amsterdam  
The Netherlands  
Parnassusweg 220-228

Dear Mr. Public Prosecutor,

Thank You very much for the information that we received by fax on 03.04.2007 on detention on October 12, 2005 of the Dutch citizen – Robert Horchner, on the basis of the European Arrest Warrant.

Fulfilling Your request, below I submit the information You are interested in pertaining to this case.

Referring to the questions from points 2-6 we kindly inform You, that:

The Regional Public Prosecutor's Office in Bydgoszcz, on 17.04.2000 initiated investigation in case of the revealed cultivation of cannabis in Osielsko by Bydgoszcz. As it results from the expert's expertise conducted on commission of the Public Prosecutor's Office, at the area of the property at Cisowa 3 St. in Osielsko cannabis were cultivated in order of their processing into high quality marihuana. Equipment and tools used for this production proved the fact, that the cultivation of cannabis was organized in a professional manner.

In the course of inquisition the lease agreement of the production hall in Osielsko at Cisowa 3 St. was seized. The agreement as of July 17, 1999 was concluded between Mr. Roman Hoffman – the owner of the property and the company ALBO B.V. represented by Robert Horchner. Janusz Urbański was the attorney in fact of the above mentioned company. The subject mater of the above mentioned agreement was the lease of the hall for agrarian production purposes. In the course of the inquisition it was found, that

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that ALBO B.V. company did not apply to the Voivodship Pharmaceutical Inspector in Bydgoszcz for issuing a permit for cultivation of cannabis in Osielsko at Cisowa 3 St.

As it was determined in the course of the conducted penal proceedings, after signing of the lease agreement, renovation and modernization works of the hall commenced. 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 before

starting the production another Dutch – Robert Horchner, came several times at the area of the property at Cisowa 3 St. in Osielsko.

In the course of the inquisition, the allegation of production and cultivation of narcotic drugs in the form of cannabis, violating the provisions of the act on counteracting drug addiction, was made towards Artur Jaracz and the Dutch citizen – Antonius van O. Both the above mentioned persons interrogated in the capacity of suspects, pointed at Robert Horchner and Janusz Urbański as initiators of cultivation of cannabis in Osielsko by Bydgoszcz at Cisowa 3 St. Due to the fact of not establishing the place of stay of both Robert Horchner and Janusz Urbański, national warrants pertaining to both of them were issued. In reference to Robert Horchner the warrant was issued on 20.07.2000, and the Consulate of the Kingdom of the Netherlands in Poznań was notified about it on 24.07.2007.

At the same time I would like to inform You, that in reference to Robert Horchner it has not been established whether in the years 1999-2000 he appeared in other penal proceedings as a suspect or whether he was as a suspect wanted by the law enforcement agencies. In the course of our proceedings initiated, as already mentioned, in April 2000, evidence was collected in the case composed of many themes and it pertains to several suspects. Then, having decided that the collected evidence is efficient to substantiate the guilt, to burden Robert Horchner, on 30.06.2000 a determination on presentation of the charge (pertaining to the offences listed among others in the text of the European Arrest Warrant) was issued.

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At that moment, according to the rules of Polish Penal Procedure, Robert Horchner became a suspect in our case. The determination pertaining to the charges made in relation to Robert Horchner has been slightly changed pursuant to the determination as of 20.02.2001 and then determination as of 19.05.2005. The introduced changes were not essential and all the subjective determinations undoubtedly pertained to the same offence, presenting in their description the time, place and circumstances of its committing. The last one (third) determination remains topical till the present day and its copy constitutes an enclosure to this letter. The mentioned person was then, what mentioned above, wanted by the national warrant issued in July 2000, and when these searches brought no results, with the European Arrest Warrant as of 12.10.2005.

According to the request expressed by You in the letter, I hereby enclose also the excerpt from the provisions of the Act as of April 24, 1997 on counteracting drug addiction and provisions of the Act as of June 6, 1997, Penal Code. It results from these provisions, that the penalty of deprivation of liberty that may be imposed on Robert Horchner, being the penalty defined in the article 32 subsection 3 of the Polish Penal Code, may be awarded for a term not exceeding 15 years.

When necessary, the Polish party shall immediately furnish further information and shall send copies of next documents.

In an answer to the question included in point 1 of Your letter, Polish party ensures, that according to the content of the article 607 1 of the Polish Code of penal proceedings, in case when a country executing the European Arrest Warrant shall send the wanted person to Poland for an offence on condition that execution of the penalty of deprivation of liberty or any other measure resulting in deprivation of liberty shall take place in this country, the proceedings regarding execution of the penalty shall not be instituted, and the sentenced person shall be sent to the country that inflicted such penalty. So, if in the decision admitting the release of the suspect on the basis of the European Arrest Warrant there shall be a saving that the suspect is to serve his sentence at the territory of the Kingdom the Netherlands when the judgement becomes valid

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the Polish court shall immediately, when the final adjudication becomes valid in our case, issue a decision on the release of the above mentioned person to the Netherlands to serve his penalty, sending at the same time all the necessary document.

The precise wording of this provision is included in the excerpt of the provisions of the mentioned code, attached to this letter.

Polish provisions do not connect the issue of the manner of execution of penalty in the above presented situation by the country where the warrant is to be executed with the provisions of the mentioned in Your letter Convention from 1983. The manner of the penalty's execution remains in such a state of affairs lies in the hands of the country of the warrant's execution, whom the sentenced person has been given up for the penalty's execution. So, in the subjective case execution of the penalty shall remain within the competence of the appropriate Dutch bodies.

Incidentally I would like to mention, that on April 4, 2007, the Federal Republic of Germany handed the Polish party over Janusz Urbański, detained on the basis of the European Arrest Warrant.

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

Oblong stamp: Assistant Regional Public Prosecutor in Bydgoszcz, Piotr Grzegorek  
/-/ legible signature:

Enclosures:

- Determination on the change of the determination on presenting the charges as of 19.05.2005,
- Excerpt from the Act as of 24.04.1997 on counteracting drug addiction
- Excerpt from the Act as of 06.06.1997 Penal Code
- Excerpt from the Act as of 06.06.1997 of the Code of Penal Proceedings

*I, Ewa Ożga, 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, April 12, 2007*

*Repertory no A/98/2007*

