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Harmonisation of law by the back door: the European Evidence Warrant

Sally Ramage

The European Evidence Warrant has been in force since December 2009.¹ The EEW was in response to the call by the European Council in Tampere in 1999 for the mutual recognition of pre-trial orders in criminal investigations. The Council of the European Union adopted at its meeting on 1-2 June 2006 a general approach on the proposal for a Framework Decision on the EEW.

EEW applicable offences

The offences are as follows: -

- Arson;
- Computer-related crime;
- Corruption;
- Counterfeiting;
- Counterfeiting and piracy of products;
- Crimes within the jurisdiction of the International Criminal Court;
- Drug trafficking;
- Environmental crime, including trafficking in endangered animal / plant species;
- Facilitation of unauthorised entry and residence;
- Forgery of administrative documents and trafficking therein;
- Forgery of means of payment;
- Fraud, including that affecting the financial interests of the European Communities;
- Grievous bodily injury;
- Human trafficking;
- Illegal restraint and hostage-taking;
- Illicit trade in human organs and tissue;
- Illicit trafficking in cultural goods;
- Illicit trafficking in hormonal substances / growth promoters;
- Illicit trafficking in nuclear or radioactive materials
- Kidnapping;
- Laundering proceeds of crime;
- Murder;
- Organised or armed robbery;
- Participation in a criminal organisation;
- Racism and xenophobia;

¹ See Anand Doobay, "The European Evidence Warrant", *The Criminal Lawyer*, Tottel, October 2007, pages 1-3.

Racketeering and extortion;

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The full article can be bought from Westlaw, Thomson Reuters.

Privilege against self-incrimination and section 13 Fraud Act 2006 **Sally Ramage**

It is generally understood that in English law, a witness may refuse to produce documents or give evidence on the ground that the information sought is privileged. In respect of documents he is protected from giving evidence as to their content, or his knowledge or belief founded thereon. Privilege is not concerned with its admissibility, which depends upon its relevance².

The full article can be bought from Westlaw, Thomson Reuters.

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² See *Calcraft v Guest* [1898] 1 Q.B. 759, the essence of which is that once a document, in respect of which a party has not waived privilege, has been seen by an opposing party there is no rule of evidence to prevent the other party from leading secondary evidence of the document if relevant.