

Observation File

Debate 1 : Spain 1 vs. Netherlands 1

France 2 : Alice Bonatti, Marine Delanoe, Quentin Siegrist

Team Spain 1

1. Relevant arguments

We appreciated that the Spanish team used **concrete examples** so that they really emphasized the **human dimension** of the problem.

Their main point about the issue of **fundamental rights' respect** was indeed very well highlighted and we agree that the question of a **proportionality test** is a big issue in the matter of executing an EAW.

We agree with the Spanish team that the drafting of the Framework decision was a “**rush job**”.

2. Debated arguments

The Spanish team argument dealing with the **impossibility to have direct relations (phone call)** with the issuing authority of an EAW when a question of proportionality is arisen, was not really relevant (because calling someone can save time).

We regret that they had **not really brought concrete solutions apart from the addition of grounds for refusal**. Maybe something less radical should have been found in order to avoid to hinder the Framework decisions spirit. The Spanish team could have been more mitigated.

Team Netherlands 1

1. Relevant arguments

We appreciated that the Dutch team laid on **concrete arguments and concrete examples** to support their argumentation (difficulties with Poland, Italian legislation adding a special national ground for refusal, personal experiences).

The distinction they made on **long run and short run solutions** was relevant.

They were convincing when they elaborate on the fact that the EAW was an efficient tool of cooperation.

The Dutch approach was interesting because they really tried to **find solutions** such as fining the requested person in the Netherlands when the offence is too small.

2. Debated arguments

The Dutch team could have elaborated on the” **judicialisation**” entailed by the EAW (contrary to traditional extradition). It would have been interesting to explain why this judge to judge process is less political and more automated and thus more efficient.

We are not sure to agree with them when they sustained that the EAW was designed **only for serious offences** because the penalty threshold in the Framework decision is not so high.