

## Avalaht>Kohtumenetlused>Kriminaalasjad>Õiguslane koostöö>Euroopa vahistamismäärus

### European arrest warrant

The European arrest warrant ("EAW") is a simplified cross-border judicial surrender procedure – for the purpose of prosecuting or executing a custodial sentence or detention order. A warrant issued by one EU country's judicial authority is valid in the entire territory of the EU. The EAW has been operational since 1 January 2004. It has replaced the lengthy extradition procedures that used to exist between EU countries.

#### How it works

A request is sent by a judicial authority in one EU country to **arrest a person, located in another Member State**, and **surrender them** for prosecution, or to execute a custodial sentence or detention order issued in the first country. The mechanism is based on the principle of mutual recognition of judicial decisions. It is operational in all EU countries via direct contacts between judicial authorities.

In applying the EAW, authorities have to respect the **procedural rights of suspects or accused persons** – such as the right to information, to have a lawyer, and an interpreter, and to legal aid as stipulated by law in the country where they are arrested.

#### How is it different to traditional extradition?

##### Strict time limits

The country where the person is arrested, the executing state, has to take a final decision on the execution of the EAW within 60 days after the arrest of the person.

If the person consents to the surrender, the surrender decision must be taken within 10 days.

The requested person must be surrendered as soon as possible on a date agreed between the authorities concerned, and no later than 10 days after the final decision on the execution of the EAW.

##### Double criminality check – no longer required for 32 categories of offences

For *32 categories of offences*, there is no verification on whether the act is a criminal offence in both countries. The only requirement is that the act must be *punishable by a maximum period of at least 3 years of imprisonment in the issuing state*.

For *other offences*, surrender may be subject to the condition that the act constitutes an offence in the executing state.

##### No political involvement

Decisions are made by judicial authorities alone, with no political considerations involved.

##### Surrender of nationals

EU countries can no longer refuse to surrender their own nationals, unless they take over the execution of the prison sentence against the requested person.

##### Guarantees

The executing judicial authority may require guarantees that:

- after a certain period the person will have the **right to ask for review**, if the punishment imposed is a **life sentence**.
- the wanted person can do any resulting **prison time in the executing country**, if they are a national or habitual resident of that country.

##### Limited grounds for refusal

The executing judicial authority can refuse to surrender the requested person only if one of the grounds for mandatory or optional non-execution applies:

###### Mandatory grounds

**amnesty** (the executing country could have prosecuted them, and the offence is covered by an amnesty in that country).

the person has already been **judged for the same offence** (*ne bis in idem*)

**minors** (the person has not reached the age of criminal responsibility in the executing country)

###### Optional grounds – such as:

lack of double criminality for offences other than the 32 listed in Article 2(2) of the Framework Decision on EAW

territorial jurisdiction

pending criminal procedure in the executing country

statute of limitations, etc.

##### Handbook on how to issue and execute an EAW

On 17 November 2023, the European Commission released a new edition of the Handbook on how to issue and execute a European Arrest Warrant (EAW). Aimed at European legal practitioners to facilitate and simplify the daily work of concerned judicial authorities. The Handbook provides detailed guidance on the procedural steps for issuing and executing an EAW and it helps the legal practitioners through every step of the surrender procedure. This revised 2023 version also reflects the rapidly evolving CJEU case law on the EAW and the changes to the SIS system.

The handbook in all languages can be found here: [EUR-Lex permanent link](#)

##### Statistics on the operation of the EAW

In 2018, on average the requested persons were surrendered:

with consent – in **16,4 days**

without consent – in **45 days**.

In 2019, on average the requested persons were surrendered:

with consent – in **16,7 days**

without consent – in **55,75 days**.

In 2020, on average the requested persons were surrendered:

with consent – in **21,25 days**

without consent – in **72,45 days**.

In 2021, on average the requested persons were surrendered:

With consent – in **20,14 days**

Without consent – **53,72 days**.

Replies to questionnaire on EAW: 2014 [PDF](#) (1582 Kb) [en](#) | 2015 [PDF](#) (1479 Kb) [en](#) | 2016 [PDF](#) (1732 Kb) [en](#) | 2017 [PDF](#) (1268 Kb) [en](#) | 2018 [PDF](#) (1552 Kb) [en](#) | 2019 [PDF](#) (1082 Kb) [en](#) | 2020 [PDF](#) (1479 Kb) [en](#) | 2021 [PDF](#) (1450 Kb) [en](#)

Data is not available for all countries; however, issued EAWs data is complete for 2015, 2016 and 2017.

EAWs	2014	2015	2016	2017	2018	2019	2020	2021
Issued	14.948	16.144	16.636	17.491	17.471	20.226	15.938	14.789
Executed	5.535	5.304	5.812	6.317	6.976	5.665	4.397	5.144

#### Projects funded under the Justice Programme

The [InAbsentEAW](#) research project is a comparative legal study into EAWs relating to persons who were not present in the proceedings leading to their conviction (*in*

*absentia* proceedings). Practice shows that it often comes to problems in issuing and executing such EAWs. The goal of the research project was to analyse the causes for these problems and to formulate common standards for issuing such EAWs to ensure their smooth and fair execution. The research was conducted by means of case studies from Belgium, Hungary, Ireland, the Netherlands, Poland, and Romania.

#### The EAW and Detention Conditions

Although all Member States must comply with the European Convention on Human Rights (ECHR), in practice there are significant differences in relation to pre-trial detention, and material detention conditions vary enormously between Member States. As acknowledged by the CJEU in the *Aranyosi/Căldăraru* judgement, these differences in detention conditions have a real impact on mutual trust between Member States and the operation of the EAW. Since 2016, the execution of an EAW has been delayed or refused on grounds of real risk of breach of fundamental rights in nearly 300 cases.

In order to enhance judicial cooperation in criminal matters and improve detention conditions across the EU, the Commission adopted a **Recommendation on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions** on the 8 December 2022. This Recommendation provides a consolidated overview of selected European minimum standards for material conditions of detention and procedural rights in pre-trial detention with a focus on key priority areas for the protection of fundamental rights of prisoners.

#### Related links

[Framework Decision on the European arrest warrant](#)

[Report on the implementation of Council Framework Decision on the European arrest warrant and the surrender procedures between Member States](#)

[Commission Recommendation on the procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions](#)

[JHA Non-Paper from the Commission in the context of the adoption of the Commission Recommendation on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions](#)

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