

COUNCIL OF THE EUROPEAN UNION

Brussels, 12 July 2010

7551/3/10 REV 3

COPEN 64 EJN 5 EUROJUST 34

NOTE

| From: | General Secretariat |
|-----------------|--|
| To: | Working Party on Cooperation in Criminal Matters (Experts on the European Arrest Warrant) |
| No. prev. doc.: | 8111/05 COPEN 75 EJN 23 EUROJUST 24 |
| | 9734/5/09 REV 5 COPEN 87 EJN 28 EUROJUST 28 |
| Subject: | Replies to questionnaire on quantitative information on the practical operation of the European arrest warrant – Year 2009 |

Further to the questionnaire set out in 8111/05 COPEN 75 EJN 23 EUROJUST 24, delegations will find in ANNEX I a compilation of the replies received with regard to the year 2009 and in ANNEX II the replies to questions 6.2. and 12.

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Questions to Member States as issuing States:

| BE BG CZ | Z DK DE | EE EL E | S FR IE | IT CY | LV LT | LU HU | MT NL | AT PL | PT RO | SI Sk | FI S | E UK |
|--|---------|-----------|----------|-------|-----------|-------|-------|-------|-------|--------|--------------|------|
| 1. How many European arrest warrants have been issued in 2009? | 2433 | 46 116 48 | 33 44 33 | 17 | 171 354 | 46 | 7 530 | 4844 | | 27 48: | 5 129 26 | 3 |

1

LT: 211 EAWs were issued by the Prosecutor General's Office in prosecution cases and 143 EAWs were issued by the Ministry of Justice in conviction maters. SK: 42 of them were cancelled during the year 2009; 6 of them were additional requests.

SE: 93 arrest warrants issued for the purpose of conducting a criminal prosecution and 170 issued for the purpose of executing a custodial sentence or detention order.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|--|----|----|----|----|------|----|-----|-----|-----|------|----|----|------|-----|----|----|----|-----|----|------|----|----|----|-----|----|-----|----|
| 2.1. How many of these European arrest warrants were transmitted via Interpol? | | | | | 2200 | 1 | 844 | 489 | 750 | none | | 17 | none | 277 | 3 | | 7 | 205 | | 3907 | | | 19 | 123 | 52 | 259 | |

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EL: In 56 cases the EAW was transmitted via Interpol and SIS simultaneously, in 5 cases it was also transmitted via EJN and Interpol or SIS.

NL: There has been a change in policy in the transmission via Interpol. Transmission via Interpol is not used when there is operational information that the person is in a SIS Member State.

| | | | PT | RO |) SI | SK | FI | SE | UK |
|---|------|------|----|----|------|-----|-----|-----|----|
| 2.2. How many of these European arrest warrants were transmitted via the SIS? | 3957 | 3957 | | | 1 | 362 | 109 | 259 | |

EL: In 56 cases the EAW was transmitted via Interpol and SIS simultaneously, in 5 cases it was also transmitted via EJN and Interpol or SIS.

LT: The number of issued EAWs may not coincide with the number of EAWs transmitted via Interpol or via the SIS for several reasons. First of all, an international search may also be announced when national police authorities provide certain information about a person in respect of whom a national search is announced. Moreover, if information is received that a person is located in a Schengen state, the EAW is not transmitted via Interpol. If more than one EAW is issued in respect of the same person, only one SIS alert is issued and one international search is announced (information about all these EAWs is always provided for the Member State concerned.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|--|----|----|----|----|------|------|----|------|------|------|----|------|------|------|--|----|------|------|----|------|----|----|------|------|------|-----|----|
| | 1 | | | | • | | | | | | | | | | | | | | | | | | | | | • | |
| 2.3. How many of these European arrest warrants were transmitted via the VPN of the EJN? | | | | | none | none | 68 | none | none | none | | none | none | none | EAW by direct transmission to executing authority-31; EAW via Eurojust-2 | | none | none | | none | | | none | none | none | n/a | |

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<u>EL</u>: in 14 cases of EAW the intervention of Eurojust was of great value (EAWs transmitted to Great Britain and the Nederlands).

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|--|----|----|-----|----|-----|------|------|----|-----|----|----|----|----|-------------------------|----|----|----|-----|----|------|----|----|----|----|------------------------------|------------------|----|
| 3. How many of these arrest warrants resulted in the effective surrender of the person sought? | | | 679 | | 777 | 2111 | 1912 | 99 | 420 | 16 | | 3 | 40 | 84 (41 - GPO, 43 - MOJ) | 26 | | 2 | n/a | | 1367 | | | 6 | 79 | 47 (1 outside Schengen area) | 28 ¹³ | |

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CZ: 4 EAW issued in 2008; 59 EAW ussued in 2007; 14 issued in 2006.

¹⁰ DE: This figure does not differentiate between surrenders based on EAWs issued in 2008 and those based on EAWs issued in 2009.

¹¹ EE: 21 persons surrendered, 7 persons detained in Estonia, 1 EAW was for extension of surrender and 17 persons are still wanted.

¹² EL: 35 EAWs were eventually reduced at 26 as 9 of them concerned persons already mentioned in another EAW issued (35 EAWs for 26 persons).

SE: Regardless of when the EAWs were issued, 28 persons were surrendered to Sweden during 2009 (22 for conducting a criminal prosecution; 6 for executing a custodial sentence or detention order).

Questions to Member States as executing States:

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|--|----|----|-----|----|----|----|-----|------|-----|-----|----|----|----|----|------|----|----|-----|----|-----|----|----|----|----|----|----|----|
| 4. How many | | | 310 | | 14 | 38 | 216 | 1629 | 967 | 326 | | 27 | 27 | 52 | 2115 | | 8 | 683 | 7 | 286 | | | 56 | 97 | 26 | 93 | |
| European arrest warrants have been received | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| by the judicial authorities of your Member | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| State in 2008? | | | | | | | | | | | | | | | | | | | | | | | | | | | |

<u>DE</u>: Through SIS: 11.310; through Interpol: 2.142. <u>LU</u>: + 2 requests for extension.

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¹⁵

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|---|----|----|-----|----|--------|------------------|-----|-------|-----|-----|----|----|----|----|----|----|--------------------|-----|----|-----|----|----|----|----|----|------|----|
| 5.1. How many persons have been arrested under a European arrest warrant in your country? | | | 234 | | 120816 | 3017 | 178 | 1232 | 789 | 463 | | 13 | 11 | 30 | 16 | | 5 (3 not in Malta) | n/a | | | | | 47 | 66 | 22 | 9019 | |
| 5.2. How many have been effectively surrendered ? | | | 220 | | 982 | 31 ²¹ | 127 | 99022 | 626 | 263 | | 13 | 11 | 37 | 14 | | 4 ²³ | 408 | | 163 | | | 39 | 43 | 25 | 87 | |

<u>DE</u>: In 157 cases the person was already serving a german custodial sentence and in 19 cases in german custody on demand, so that no deprivation of liberty was required.

EE: 1 case was the extension of surrender and 7 wanted persons served their sentences in Estonian prison.

EL: 7 EAWs concerned 3 persons (instead of 7). In one case the arrested died before surrender due to a car accident, in 2 cases the arrest was based on a 2008 issued EAW and in 1 case on a 2007 issued EAW.

SE: This figure includes 11 persons who were already deprived of their liberty in Sweden, i.e. 79 were deprived of their liberty further to an EAW.

 $[\]overline{CZ}$: 170 cases + 2 cases from 2006 + 1 case from 2007 + 47 cases from 2008.

EE: In 4 cases the EAW was withdrawn by the issuing state after the person was arrested in Estonia.

 $[\]overline{ES}$: Out of 1244 granted.

 $[\]overline{MT}$: 1 was withdrawn by the Polish authorities.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|---|----|----|-------|----|-----|----|------------------|-----|-----|-----|----|----|----|----|-----------------|----|----|-----|----|----|----|----|----|----|----|------------------|----|
| | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5.3. Of those surrendered, how many consented to the surrender? | | | 138 | | 564 | 21 | 94 | 504 | 380 | 153 | | 11 | 9 | 35 | 13 | | 4 | 67 | | 95 | | | 22 | 24 | 15 | 43 | |
| 5.4. Of those surrendered, how many did not consent to the surrender? | | | 82 25 | | 418 | 10 | 33 ²⁶ | 740 | 246 | 110 | | 2 | 2 | 2 | 2 ²⁷ | | 0 | 341 | | 68 | | | 17 | 19 | 10 | 43 ²⁸ | |

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 $[\]underline{CZ}$: 108 cases + 2 cases from 2006 + 1 case from 2007 + 27 cases from 2008.

 $[\]overline{\text{CZ}}$: 62 cases + 20 cases from 2008.

 $[\]overline{EL}$: 3 EAWs concerned the same person.

LU: Intermediate situations: - Arrested person who consented to surrender, but where surrender is delayed and not realised before 31.12.2008 (). - Arrested person who did not consent to surrender, but where surrender is delayed and not realised before 31.12.2008 (1).

SE: there is no information in one of the cases in this regard.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|---|----|----|-------------|----|-------------|------|-------------|-------------|-------------|-------------|----|------|-------------|-------------|-------------|----|-----|-------------|----|----|----|----|-------------|-------------|-------------|-------------|----|
| 6.1. In how many cases have the judicial authorities of your Member State refused the execution of a European arrest warrant? | | | 44 | | 174 | none | 23 | 38 | 29 | 27 | | none | 3 | 2 | 130 | | 0 | 5031 | | | | | 5 | 22 | 1 | 4 | |
| 6.2. Which were the grounds for refusal? | | | Cf. Annex I | | Cf. Annex I | | Cf. Annex I | Cf. Annex I | Cf. Annex I | Cf. Annex I | | | Cf. Annex I | Cf. Annex I | Cf. Annex I | | n/a | Cf. Annex I | | | | | Cf. Annex I | Cf. Annex I | Cf. Annex I | Cf. Annex I | |

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FR: All courts of appeal have not been able to provide figures and therefore the French delegation is unable to communicate a global figure.

 $[\]overline{LU}$: + 1 surrender-requested for execution of a pecuniary sentence not executed after agreement with issuing authority.

NL: In The Netherlands the public prosecutor as well as the court can refuse to execute an EAW. The public prosecutor, when receiving the EAW, checks it for its completeness. In a case of incompleteness additional information is requested in all cases. The public prosecutor is also responsible for checking whether a ground for refusal does apply. If the EAW remains incomplete or it is apparent that a ground for refusal does apply the public prosecutor is competent to refuse the execution of the EAW, without any referral to the Court.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|---|----|----|------------|----|--------------|-----|---------------|-------|------------|-------------------------|----|---------------|-------------------------|------------|-------------|----|----------|-------------------------|----|------------|----|----|--------------|------------|------------|-------------------------|----|
| 7.1. How long does a surrender procedure take in average where the person agreed to the surrender (time between the arrest and the decision on the surrender of the person sought)? | BE | BG | CZ 40 days | DK | DE 15,7 days | 9 9 | EL 10-30 days | ES 14 | FR 14 days | E 6 weeks ³² | IT | CY 10-15 days | Approximately 5-10 days | LT 1 month | I to 5 days | HU | M 7 days | Z 10 days ³³ | AT | PL 24 days | PT | RO | SI 1-30 days | SK 27 days | FI 15 days | S Approximately 15 days | UK |

33

<u>IE</u>: It should be noted however that few subjects consent to surrender on arrest. Where consent is granted on arrest, surrender takes on average 9 days.

NL: In 2009, the average duration of a simplified surrender from persons arrested in the border regions was: 1 day.

| 7.2. How long does a surrender procedure take in average where the person did not consent to the surrender (time between the | | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|--|---|----|----|----|----|------|----|--------|----|----|-----|----|----|---------------------|----|---------|----|---------------------------------|----|----|----|----|----|--------------|----|----|---------------|----|
| arrest and the decision on the | How long does a surrender procedure take in average where the person did not consent to the surrender (time between the arrest and the decision | BE | BG | 56 | DK | 37,8 | | 15-120 | | 29 | 4,5 | IT | | Approximately 15-20 | 2 | 45 days | HU | 30-60 days depending on whether | 76 | AT | 31 | PT | RO | 7 days - 2,5 | | 21 | Approximately | UK |

³⁴ DE: In these proceedings in which the prosecuted person is serving a German custodial sentence or in custody on demand, the time period starts to run only when the custody for surrender purposes starts.

<u>LU</u>: In case of appeal against the judicial decision to surrender.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|---|----|----|----|----|------|------|----|----|----|----------------|----|------|------|------|----|----|------|-----------|----|----|----|----|----|------|------|----|----|
| 8.1. In how many cases were the judicial authorities of your Member State not able to respect the 90-days time limit for the decision on the execution of the European arrest warrant according to Article 17(4) of the Framework Decision? | | | 11 | | 36 | none | 1 | 10 | 7 | 101 since 2007 | | none | none | none | 0 | | none | 16 | | 12 | | | 2 | 3 | none | 2 | |
| 8.2. In how many of those cases was Eurojust informed? | | | 5 | | none | n/a | 0 | 3 | 1 | 101 | | none | none | n/a | 0 | | n/a | regularly | | 2 | | | 0 | none | n/a | 2 | |

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|----------------|----|----|----|----|-----|------|-----|----|-----|--------------------|----|------|------|------|----|----|------|-------|----|----|----|----|------|----|------|----|----|
| | 1 | 1 | 10 | 1 | 501 | 1 | 137 | | | ı | ı | Г | ı | ı | | 1 | 1 | T = 2 | 1 | | | 1 | 1.10 | | 1 | | 1 |
| 9.1. | | | 12 | | 501 | nc | 157 | 89 | 52 | nc | | nc | nc | nc | 0 | | nc | 73 | | 23 | | | 13 | 3 | nc | 2 | |
| In how many | | | | | 36 | none | | | , , | none ³⁸ | | none | none | none | | | none | 39 | | | | | | | none | | |
| cases were the | | | | | | | | | | 38 | | | | | | | | | | | | | | | | | |
| judicial | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| authorities of | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| your Member | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| State not able | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to respect the | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10-days time | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| limit for | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| surrender | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| according to | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Article 23(2) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| of the | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Framework | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Decision? | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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DE: In case of travel by land, all State authorities competent for the execution of penalties of the concerned Länder or need to be involved, which leads to delays. The 10 day period is only occasionally breached. The vast majority of surrenders take place with a bordering Member State, whose authorities do not always receive a timely taking over of the prosecuted person.

EL: if the 10 days time limit can't be respected judicial authorities claim a new surrender day according to art. 23 par 3 of the F-D.

IE: In 4 cases the issuing state was unable to collect the subjects within the specified times limits and was unable to provide an adequate reason.

NL: Many of those cases concerned persons against whom a national criminal prosecution was pending or persons who were detained for other reasons or persons in relation to whom other EAWs were received after the decision of the court but before the surrender: 37.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | ΙE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|--|----|----|----|----|----|------|----|----|----|--------------------|----|------|------|------|----|----|------|------|----|----|----|----|----|------|----|----|----|
| | | | | | | | | | | | | | | | | | | | | | | | | | _ | | |
| 9.2. In how many of those cases was the person released, according to Article 23(5) of the Framework Decision? | | | 0 | | | none | 0 | 7 | 40 | none ⁴¹ | | none | none | none | 0 | | none | none | | 13 | | | 1 | none | | 0 | |

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ΓÑ

FR: All courts of appeal have not been able to provide figures and therefore the French delegation is unable to communicate a global figure.

IE: 4 subjects were released by the Courts because of the inability of the issuing state to collect them within the time frame or to provide adequate reasons for not doing so.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|---|----|----|---------------------------|----|-----|----|------------------|------------------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|------|----|------|----|
| | | | | • | • | | | | | | | | | | | | | | | | , | | | | | | |
| 10.1. In how many cases did the judicial authorities of your Member State execute an arrest warrant with regard to a national or resident of your Member State? | | | 26 nationals; 6 residents | | 103 | 23 | 27 ⁴³ | 23 surrendered (out of 33 granted) | 77 | 58 | | 3 | 8 | 32 | 0 | | 3 | 99 | | 99 | | | 9 | 4945 | 3 | 1346 | |

DE: In 41 cases German citizens were surrendered.

EL: in 4 cases although the relevant Greek authorities consented to the execution of the EAW, the surrender was postponed until the completion of their service of sentence.

NL: In 2009 the total number of persons surrendered who are regarded as equivalent to nationals is: 8.

 $[\]underline{SK:}$ The Slovak Republic does not investigate the residence of arrested persons.

SE: this figure concerns Swedish nationals.

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|--|----|----|---------------------------|----|----|----|----|----|----|------|----|----|------|------------------------------|----|----|-----|-----|----|----|----|----|----|------|----|----|----|
| | | | | | | | | | | | | | | | | | | | | | | | | _ | | | |
| In how many of those cases did the judicial authorities of your Member State request a guarantee under Article 5(3) of the Framework Decision? | | | 21 nationals; 4 residents | | 33 | 23 | 4 | 16 | 3 | none | | | none | To all citizens of Lithuania | 0 | | n/a | 107 | | 81 | | | 0 | none | 3 | 5 | |

| | BE | BG | CZ | DK | DE | EE | EL | ES | FR | IE | IT | CY | LV | LT | LU | HU | MT | NL | AT | PL | PT | RO | SI | SK | FI | SE | UK |
|--|----|----|----|----|------|------|----|----|----|--------------------------|----|----|------|------|----|----|-----|----------------------------------|----|----|----|----|----|--|----|------|----|
| | , | , | | | | 1 | , | | | | 1 | | , | | , | | | | , | | | | | | | 1 40 | |
| In how many cases have the judicial authorities of your Member State requested additional guarantees under Article 5(1) or Article 5(2) of the Framework Decision? | | | 0 | | none | none | 5 | 15 | 47 | statistics not available | | 3 | none | none | 0 | | n/a | Article 5(1) - n/a ⁴⁸ | | 6 | | | 1 | Article 5(1) - none; Article 5(2) - none | 0 | 49 | |

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FR: All courts of appeal have not been able to provide figures and therefore the French delegation is unable to communicate a global figure.

 $[\]underline{NL}$: The Netherlands does not require a guarantee as provided for in Article 5 (2).

SE: Data related to the number of requested guarantees as provided for in Article 5 (1) are not available. Sweden does not require a guarantee as provided for in Article 5 (2).

| 12. Is there any other information Cf. Annuex Res | | , | |
|---|--------------|---|--|
| | | | |
| regarding the operation of the European arrest warrant that | Of. Annex II | | |

Replies to question 6.2

"Which were the grounds for refusal?"

LITHUANIA

1 case - failed to match the principle of double criminality because the act on which the European Arrest Warrant was based did not constitute an offence under the criminal law of the Republic of Lithuania; 2 case - under the criminal law of the Republic of Lithuania the statute of limitations for execution of the judgment of conviction had already been expired.

SLOVENIA

Article 4/4 of the FD (lapse of time); Article 4/1 of the FD (the act on which the EAW was based did not constitute a criminal offence under the law of the Republic of Slovenia); withdrawal (revocation) of the EAW; issuing state did not provide additional information- documentation.

GERMANY

- The requested person is not resident in Germany: 14
- The European arrest warrant does not satisfy the formal requirements: 7
- Under the law of the requested Member State, the offence is not punishable by a custodial sentence for a maximum period of at least 12 months: 1
- The remainder of the custodial sentence still to be served is less than four months: 1
- The requested person has already been finally judged by another Member State in respect of the same act: 3
- Execution is requested on the basis of a decision rendered *in absentia* without the conditions permitted in Article 5 of the Framework Decision being fulfilled: 4
- Prosecution or punishment is statute-barred under German law: 42
- There is no double criminality in respect of an offence not listed in Article 2(2) of the Framework Decision: 6

- Extradition would contravene European public order: 2
- Criminal proceedings are being conducted against the requested person in Germany in respect of the same act: 5
- The requesting State cannot be expected to grant a similar request from Germany (lack of reciprocity): 0
- A foreign national habitually resident in Germany has not consented to extradition for the purpose of execution of a sentence: 34
- It cannot be guaranteed that a German national extradited for the purpose of prosecution will be returned to serve his sentence: 2
- In respect of the offence of which a German national is accused, there is a significant link with Germany within the meaning of § 80(2) of the Law on International Judicial Assistance in Criminal Matters (IRG): 2
- A German national has not consented to extradition for the purpose of execution of a sentence: 47
- Other (death of the requested person, residence in a third country): 4

FINLAND

Art 4(6), (citizen).

IRELAND

- Correspondence could not be established
- Issuing state could not provide guarantee of retrial
- Cumulative sentence on multiple offences where correspondence could not be established for one offence
- Invalid warrant (not signed by judicial authority)
- Identification
- Health

SLOVAK REPUBLIC

- The criminal prosecution or punishment of the requested person was statute-barred
- The criminal offence was considered as partially or as whole committed in the territory of the Slovak Republic
- The remaining custodial sentence to be executed is of less than 4 months
- Withdrawal of EAW
- The person was not located on the territory of the Slovak Republic
- Lack of prescribed information in the EAW
- The EAW was not forwarded
- The person is prosecuted for the same act as that on which the EAW is based

SWEDEN

- The wanted person could not be found in Sweden (1)
- The statutes of limitation in Swedish law (2)
- The arrest warrant concerned a custodial sentence and the wanted person was a Swedish national that demanded that the sanction should be enforced in Sweden (1)

In addition, in one case a court reversed the decision to grant surrender due to the fact that the decision to surrender was not enforced within the stipulated time-limit.

LATVIA

- The European arrest warrant has been issued for the purpose of execution of custodial sentence, where the requested is a national.
- Statute barred offence.

LUXEMBOURG

Date of offence (< 8.8.2002).

FRANCE

- The issuing state has not provided an effective remedy in case of an *in absentia* judgment.
- The original European Arrest Warrant was not provided and a fax does not allow to verify the authenticity of the European Arrest Warrant.
- Nullity of the detention procedure after the arrest of the person (because of a notification of rights which did not comply with articles 63 and following of the code of criminal procedure).
- The summary of the fact of which the person was accused, did not suffice.
- The execution of a foreign sentence in France regarding a French national (article 4, 6 of the Framework Decision).
- Failure to reply to a request for additional information.
- Ne bis in idem principal.
- Error regarding the person.
- Lack of criminal liability under French law for facts which do not feature on the list of 32 offences

SPAIN

Criminal prosecution is statute-barred, ne bis in idem, double criminality.

CZECH REPUBLIC

- (2) Czech national act committed before 1.11.2004.
- (7) person is prosecuted for the same act as that on which the EAW is based.
- (6) requested person is a national and EAW has been issued for the purposes of execution of a custodial sentence.
- (15) EAW is canceled.
- (14) person is not located in the CZE

GREECE

Law 3251/2004 : 11 par f (8 cases), 11 par d (2 cases), 11 par h (2 cases), 10 par 1a (1 case), 11 par b (7 cases), 11 par g (1 case), 12 par a (2 cases)

NETHERLANDS

- Incompleteness of the EAW: 6;
- Art. 2 (4): 7;
- Art 3 (2): 2
- Art 5(1): 5;
- Art. 4 (4): 1;
- Art. 4 (6): 14
- Art. 4 (2): 2
- After the arrest of the person mentioned in the EAW it became clear that that was not the person wanted by the issuing judicial authority;
- Different reasons (as the withdrawl of the EAW by the issuing authority after the court procedure started, the person was not in the Dutch territory, the judgement underlying the EAW was annulled in the issuing State, the issuing authority chose in a later stage to transfer the execution of the judgement): 13.

Replies to question 12:

"Is there any other information regarding the operation of the European arrest warrant that you would like to give?"

SLOVENIA

The proportionality issue - courts have estimated that in some cases the issuing authority did not use any alternatives to issuing an EAW, such as using less constraining instrument of mutual legal assistance, obtaining the presence of suspects at the trial via other means, using the SIS to establish the place of residence of a suspects, etc, which could actually prevent issuance of the EAW.

MALTA

When a requested person is ordered to be surrendered, any bail he may enjoy should be revoked in order that he may be committed to custody to await his return. A fugitive who was accused with trafficking in narcotics and located in the United Kingdom, who had been granted bail, when ordered to be surrendered to Malta absconded. To date her whereabouts remain unknown although we are informed efforts are being made to trace her.

FRANCE

The French delegation points out that, in accordance with the Framework Decision on the European Arrest Warrant, these statistics are indicative in so far as the Ministry of Justice does not centralise all the European Arrest Warrant files and, on the contrary, encourages the direct transmission from judicial authority to judicial authority.

CYPRUS

The proportionality issue was often commented by the Judges during the execution process and was considered as an issue which should be urgently addressed at the European Union level.

CZECH REPUBLIC

- (6) cases were concluded in different way (e.g. person was located on the territory of another Member State, person died, the czech competent authorities did not receive original EAW, etc.) In (31) cases the surrender was postponed
- In (5) cases the consent was given with the prosecution for other offences
- In (21) cases the procedure has not been yet closed

NETHERLANDS

Overview of the Member States from whom EAB's were received

| MEMBER STATE | NUMBER | MEMBER STATE | NUMBER |
|----------------|--------|-----------------|---------|
| Belgium | 107 | Latvia | 12 |
| Bulgaria | 8 | Lithuania | 7 |
| Cyprus | 0 | Luxemburg | 4 |
| Danmark | 3 | Malta | 0 |
| Germany | 131 | Austria | 10 |
| Estonia | 3 | Poland | 199 (!) |
| Finland | 4 | Portugal | 6 |
| France | 44 | Rumania | 19 |
| Greece | 8 | Slovenia | 0 |
| United Kingdom | 35 | Slovak Republic | 3 |
| Hungary | 7 | Spain | 7 |
| Ireland | 1 | Czech Republic | 14 |
| Italia | 43 | Sweden | 3 |