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THE EUROPEAN UNION**

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NOTE

From : General Secretariat
To Working Party on cooperation in criminal matters (Experts on the European arrest warrant)

Subject : Implementation of the European arrest warrant
– Applied procedures until full implementation of the Framework Decision by all Member States

Delegations will find attached a table on the procedures applied by Member States in their relations to each other as from 1 January 2004. The table intends to outline the procedures each Member State will apply as well as the authorities competent to deal with requests under this procedure. The table is based on information that is currently available to the General Secretariat.

Delegations are requested to examine the information set out and to supplement or amend it, where necessary. Particularly the authorities to which warrants/requests shall be sent and their territorial competence will be of interest.

Delegations are kindly requested to inform either of the following persons at the General Secretariat as soon as possible:

- * Mr Hans G. Nilsson: E-mail: hans.nilsson@consilium.eu.int;
Fax: + 32 2 285 63.54; Tel: + 32 2 285 79.15

 - * Mr Guy Stessens: E-mail: guy.stessens@consilium.eu.int;
Fax: + 32 2 285 63.54; Tel: + 32 2 285 67.11

 - * Ms Lise Wandel-Petersen: E-mail: lise.wandel-petersen@consilium.eu.int;
Fax: + 32 2 285 63.54; Tel: + 32 2 285 71.29
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Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
AT	yes	yes	Ministry of Justice	yes: higher district courts (Landesgerichte) authorised to communicate and receive such supplementary information	the regional court (Landesgericht) with competence for the place where the Person sought is located in the absence of which the one with competence for the place where the person is found; in case the person is kept in detention ordered by a court, the regional court (Landesgericht) competent for the place of arrest	yes; competent Austrian Courts will ask for additional information, if necessary
BE	does not come into play – applies EAW	yes	Ministry of Justice	yes: the public prosecutor's offices and the federal prosecutor's office are authorised to communicate and receive such supplementary information	Public prosecutor's offices competent for the place where the person sought is located or the federal prosecutor's office ⁴	does not come into play

¹ As issuing States, the Member States having not yet implemented the European arrest warrant will apply extradition arrangements applicable before 1 January 2004. The following Member States having implemented the European arrest warrant, will continue to apply extradition arrangements as issuing States in relation to Member States having not yet implemented the European arrest warrant: FI, UK, ES, BE, SE and LUX . PT, IRL and DK will apply the regime of the EAW in relation to Member States that have not yet implemented the Framework Decision.

² Article 65 of the Convention implementing the Schengen Agreement and Article 13 of the 1996 EU Convention on Extradition

³ Article 14 of the 1996 EU Convention on Extradition

⁴ see “fiche française”, doc. 6353/04 COPEN 21 EJM 7 EUROJUST 13

Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
D	yes	yes	Federal Ministry of Justice and Justice Ministers and Senators of the Länder	yes: Where the Federal Republic of Germany is the requested Member State, the public prosecutor's offices at the Higher Regional Courts [Oberlandesgerichten] will be responsible for requesting and receiving supplementary information. Where Germany is the requesting Member State, the responsibility for requesting and transmitting supplementary information will lie with the head of the prosecution department [Generalbundesanwalt] at the Federal Supreme Court [Bundesgerichtshof], the public prosecutor's offices at the Higher Regional Courts [Oberlandesgerichten] and the public prosecutor's offices at the District Courts [Landgerichten]. Requests for information should be made directly to the prosecuting authority dealing with the particular extradition case.	Federal Ministry of Justice and Justice Ministers and Senators of the Länder	yes

Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
DK	does not come into play – applies EAW	applies extradition on the basis of reciprocity	Ministry of Justice	yes: courts and public prosecution authorities are authorized to request, communicate and receive the supplementary information; public-prosecution authorities comprise the Ministry of Justice, Director of Public Prosecutions, Public Prosecutors, Commissioner of the Copenhagen Police and Chief Constables	Ministry of Justice ¹	does not come into play
ES	does not come into play – applies EAW	yes	Ministry of Justice	requests for supplementary information may be made directly to the judicial body which requested extradition	the Juzgados Centrales de Instrucción y la Sala de lo Penal de la Audiencia Nacional (magistrate attached to the “Audiencia Nacional” – a court with jurisdiction for the entire territory) will deal with the case; the decision on surrender will be taken by the “Audiencia Nacional” ²	does not come into play

¹ see “fiche française”, doc. 5349/04 COPEN 14 EJM 6 EUROJUST 6, and notifications, doc. 5348/04 COPEN 13 EJM 5 EUROJUST 5 + ADD 1

² see “fiche française”, doc. 16303/03 COPEN 133 EJM 18 EUROJUST 21, and notifications, doc. 16232/03 COPEN 129 EJM 16 EUROJUST 19

Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
FR	applies EAW to offences committed on or after 1 November 1993 and extradition arrangements to offences committed before that date	yes	Ministry of <u>Justice</u>	no ¹	principal public prosecutor (<i>Procureur général</i>) attached to the court of appeal (in case of an arrest: at the place of arrest; in case the person's location is known: at the place of the person's location); ²	yes (applicable to offences committed before 1 November 1993)
FIN	does not come into play – applies EAW	yes	Ministry of Justice	yes: E.g. competent prosecutors may be contacted directly	<u>The EAW should be sent to the district prosecutors working in the area of jurisdiction of the district courts in Helsinki, Kuopio, Oulu and Tampere. The district prosecutor will submit a request for the person's surrender to the district court with territorial competence; the district court will</u>	does not come into play

¹ France has not ratified the 1996 EU Convention on Extradition

² see “fiche française”, doc. 14506/03 COPEN 109 SIRIS 99, and notification, doc. 7450/04 COPEN 30 EJN 14 EUROJUST 18

³ see “fiche française”, doc. 5168/1/04 COPEN 8 EJN 3 EUROJUST 3 REV 1, and official notifications, doc. 5166/04 COPEN 6 EJN 2

Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
					<u>decide.</u> ³	
GR	yes	yes	Ministry of Justice	no	the Presiding Judge of the Court of Appeal, if the arrested person consents to surrender, and the Judicial Council of the Court of Appeal, if the arrested person does not consent to surrender	yes
IT	yes	yes	Ministry of Justice <u>and Court of Appeal (corte di appello)</u>	no	principal public prosecutor brings the case before the Court of Appeal (corte di appello); the latter takes the decision	yes, EAW must be sent in translation into Italian and accompanied by the documentation required by the extradition arrangements applicable before 1 January

Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
IRL	does not come into play – applies EAW	yes	Ministry of Justice	no	High Court will decide; communication via the Irish Central Authority (Minister for Justice, Equality and Law Reform) ¹	2004 does not come into play
LUX	<u>applies EAW to offences committed after 7 August 2002 and extradition arrangements to offences</u>	yes	Ministry of Justice	yes: Judicial authorities or other competent authorities of other Member States may, where appropriate, make requests directly to the Principal Public Prosecutor of the State for supplementary information. Where Luxembourg is the requested	<u>The EAW shall be sent to the State prosecutor (<i>procureur d'Etat</i>) with territorial competence</u> ²	<u>yes (applicable to offences committed before or on 7 August 2002)</u>

¹ see also notifications doc. 16378/03 COPEN 140 EJM 22 EUROJUST 26

² see “fiche française”, doc. 8087/04 COPEN 43 EJM 19 EUROJUST 21, and notifications, doc. 7754/04 COPEN 35 EJM 17 EUROJUST 20

Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
	<u>committed on or before that date</u>			State, the authority to request such supplementary information lies with the Ministry of Justice, the Principal Public Prosecutor (of the State) and the judicial authorities responsible for the extradition procedure.		
NL	yes	yes	Ministry of Justice	yes: Extradition requests emanating from the Netherlands: the authorities referred to in the declaration by the requested Member State may make requests directly to the judicial authority referred to in the Netherlands extradition request, which may also provide the information requested directly. extradition requests addressed to the Netherlands: the Netherlands judicial authorities which are responsible for dealing with the extradition request may, in urgent cases, make requests directly to the authorities referred to in the declaration by the requesting Member State. These Netherlands judicial authorities are the public	public prosecutors and courts	no; the NL will require an extradition request as provided for in the extradition arrangements applicable before 1 January 2004

Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
				prosecutor at the District Court who is responsible for dealing with the request for extradition and the Public Prosecutor's Office at the State Council of the Netherlands (Hoge Raad der Nederlanden)		
PT	does not come into play – applies EAW	yes, applies extradition on the basis of reciprocity	Procuradoria-Geral da República (Attorney General's Office)	no	The Tribunal da Relação (Court of Appeal) with competence for the place of residence of the person sought or the place where the person is found <u>is competent to execute an EAW. The EAW shall be sent to the prosecutor attached to the criminal section of these Courts.</u> ¹	does not come into play
SE	does not come into play – applies EAW	yes	Ministry of Justice	yes: The Prosecutor-General or any other prosecutors dealing with extradition cases are empowered to communicate directly with their counterparts in other countries.	The executing authorities are the public prosecutor and ordinary courts. The EAW is sent to the public prosecutor designated by the Office of the Prosecutor-General. ²	does not come into play

¹ see “fiche française”, doc. 5198/04 COPEN 10 EJM 4 EUROJUST 4, and notifications, doc. 5165/04 COPEN 5 EJM 1 EUROJUST 1

² see “fiche française”, doc 16331/03 COPEN 135 EJM 19 EUROJUST 22, and notifications, doc. 16288/03 COPEN 132 EJM 17 EUROJUST 20

Member State	applies, as executing State, extradition in relation to Member States having implemented the EAW	applies, as executing State ¹ , extradition arrangements applicable before 1 January 2004 in relation to Member States having not yet implemented the EAW	authorities dealing with requests under extradition as requested State ²	direct contact to MS' judicial authorities for supplementary information <u>under extradition arrangements</u> ? ³	authorities dealing with requests under surrender procedure as executing State (authorities to which the EAW shall be sent)	is able to conduct extradition procedures on the basis of a EAW
UK	does not come into play – applies EAW	yes	Home Office and Scotland Office	no	EAWs shall be sent to the following central authority: National Criminal Intelligence Service (Crown Office for Scotland) ¹ ; the executing judicial authority will be a District Judge in England and Wales, the sheriff of Lothian and Borders in Scotland and a county court judge or resident magistrate in Northern Ireland;	does not come into play

¹ See “fiche française”, doc. 15585/1/03 COPEN 123 REV 1, and notifications, doc. 16352/03 COPEN 136 EJM 20 EUROJUST 23.