



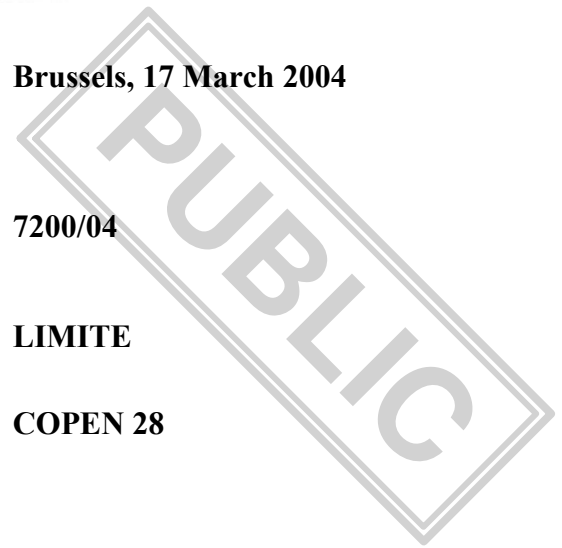
**COUNCIL OF  
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**NOTE**

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From : Presidency

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

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Subject : Implementation of the Framework Decision on the European arrest warrant by the Accessing States

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By 1 May 2004 the ten Accessing States shall have the necessary legislative and practical measures in place to operate the system of the European arrest warrant and surrender procedures. All ten Accessing States have, at various occasions, affirmed that they will be able to complete the procedures to implement the Framework Decision on the European arrest warrant before that date and, thus, be able to operate the new system of surrender as from that date.

1. The Accessing States will not participate in the SIS as from 1 May 2004, but presumably join the SIS when the SIS II will become operational. Hence, alerts based on European arrest warrants to and from Accessing States in cases where the location of the person sought is unknown, will not be able to be transmitted through the SIS. Instead, the services of Interpol (Article 10(3) of the Framework Decisions) may be called upon to transmit European arrest warrants to and from the Accessing States as well as to and from the UK and Ireland until these states fully participate in the SIS.

Should a European arrest warrant be issued by a Member State that currently takes part in the SIS and should an EU wide search be intended, Interpol will have to be informed in addition to the entering of an alert in the SIS. Apparently some Member States already adhere to this practice of "double alerting" at this stage. It is indeed to be expected that, in cases where the location of the person is not known, the issuing Member State will not only alert the person through the SIS, but also place an alert through Interpol, as it will not be known whether the person finds himself inside or outside the European Union. Only by using both instruments, a search throughout the entire EU territory will be possible during the transitional period before SIS II will cover all Member States.

2. In case the location of the person sought is known, the European arrest warrant should preferably be transmitted directly from the issuing judicial authority to the executing judicial authority (Article 9(1) of the Framework Decision). This applies to both Member States and Acceding States. If the issuing judicial authority does not know the competent executing judicial authority, it shall make the requisite enquiries, including through the contact points of the European Judicial Network, in order to obtain that information from the executing Member State (Article 10(1) of the Framework Decision). In particular during the first months of operation in the new Member States it may be very useful to consult the EJM contact points in order to fill in the possible lack of experience as to which judicial authorities are the relevant authorities with territorial competence in the Acceding States. The Presidency considers the use of the EJM to be a proper way of ensuring direct contacts and direct transmission of European arrest warrants between judicial authorities until a comprehensive overview of all judicial authorities with territorial competence throughout the (enlarged) European Union will be available. As, in practice, the Acceding States already fully participate in the EJM, the EJM will be able to fulfil these tasks and to support judicial authorities in their treatment of surrender proceedings involving old and new Member States as from 1 May 2004.

3. Although the implementing process is still ongoing in most Acceding States and draft bills are still under parliamentary consideration, the Presidency deems it important that, Member States and Acceding States will be informed on the implementation of the Framework Decision on the European arrest warrant by the Acceding States and Member States at the earliest stage possible. It will be of crucial importance to provide the authorities competent to issue European arrest warrants in Member States with information as to which authorities in the executing State European arrest warrants should be sent to.

From today's point of view and in light of the fact that the following information is based on (provisional) drafts which may be changed in the parliamentary process, the situation appears as follows:

Some Acceding States intend to designate a central authority to which European arrest warrants shall be sent<sup>1</sup>. Others will centralise the competence to execute European arrest warrants in one authority<sup>2</sup>. Several Acceding States will provide for direct transmission to the regionally competent judicial authorities<sup>3</sup>.

4. In this context the Presidency would like to request all Member States that have not already done so, and all Acceding States to inform the General Secretariat of the Council immediately after they have adopted the legislation on the European arrest warrant with information on the date of entry into force of this legislation. The Council General Secretariat will then distribute this information to all Member States and Acceding States so that everyone is informed in the speediest possible manner about which Member States and Acceding States have implemented the Framework Decision on the European arrest warrant.

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<sup>1</sup> EE (Ministry of Justice; the Tallinn City Court and the Tarty County Court will be competent to execute European arrest warrants)  
LV (Prosecutor General's Office)  
CY (Ministry of Justice)

<sup>2</sup> LT (General Prosecutor's Office and Vilnius region court)  
HU (Metropolitan Court)

<sup>3</sup> PL (circuit courts with territorial competence)  
SK (regional prosecution offices where the persons consents to surrender and regional courts in other cases)  
CZ (public prosecutors and courts)

Member States that have not already done so and Acceding States are also kindly requested to send in the “Fiches Françaises” before the entry into force of the legislation as well as to make the notifications provided for the Framework Decision on the European arrest warrant.

5. Moreover, the Presidency invites delegations from the Acceding States to inform the participants of the next meeting of the Working Party on Cooperation in criminal matters (Experts on the European arrest warrant) as to whether their executing judicial authorities will presumably accept European arrest warrants in other languages than their official language(s) and about the presumable delay for the reception of the European arrest warrant.

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