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THE EUROPEAN UNION**

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REV 1**

**COPEN 97
EJN 32
EUROJUST 39**

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
9120/2/11 REV 2 COPEN 83 EJN 46 EUROJUST 58

Subject : Replies to questionnaire on quantitative information on the practical operation of the European arrest warrant – Year 2011

Further to the questionnaire set out in 8111/05 COPEN 75 EJN 23 EUROJUST 24, delegations will find in ANNEX a compilation of the replies received with regard to the year 2011 and in ANNEX I and ANNEX II the replies to questions 6.2. and 12.

Questions to Member States as issuing 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	
1. How many European arrest warrants have been issued in 2011 ?			518		2138	67		531		71		26												350		198		
																										1		

¹ SE: (97 issued for the purpose of conducting a criminal prosecution and 101 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?			none		1625	8		531		none		all												33			198	

	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
2.2. How many of these European arrest warrants were transmitted via the SIS?			none		2138	67	531			none		none											317			198	

	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	
2.3. How many of these European arrest warrants were transmitted via the VPN of the EJN?			none		none		none	none		none		none												none			not applicable	

	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?			238 2		855 3	31		99 4	19		8													105		69 ⁵	

² CZ: 90 + 16 cases from 2007 + 17 cases from 2008 + 22 cases from 2009 + 93 cases from 2010.

³ DE: No distinction is drawn according to whether the surrenders took place on the basis of a European arrest warrant transmitted in 2011, 2010 or earlier.

⁴ ES: No distinction is drawn according to whether the surrenders took place on the basis of a European arrest warrant transmitted in 2011 or earlier.

⁵ SE: Regardless of when the EAWs were issued, 69 persons were surrendered to Sweden during 2011.

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 European arrest warrants have been received by the judicial authorities of your Member State in 2011?			302		14034 ⁶	49		1435	384		51													88			163	

⁶ DE: In 2011, a total of 14 034 alerts on the basis of a European arrest warrant were issued by Member States connected to the Schengen Information System (not including Germany - see 2.2 above). A total of 177 search requests were received via Interpol from States which use the European arrest warrant but do not participate in the Schengen Information System.

	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?			291 ⁷		1082 ⁸	41		1187		1003		24												58			151 ⁹	
5.2. How many have been effectively surrendered?			238 ¹⁰		979	39 ¹¹		889		601		20												48			137	

⁷ CZ: 258 + 33 imprisonment.

⁸ DE: This number includes cases in which the requested person was already in German custody either serving a sentence or remanded in custody, so there was no arrest, just superimposed detention where appropriate. In the reporting period, there were 1 161 cases in which a decision was taken on extradition on the basis of a European arrest warrant.

⁹ SE: This figure includes 11 persons who were already deprived of their liberty in Sweden, i.e. 140 were deprived their liberty due to a EAW.

¹⁰ CZ: 197. + 1 case from 2007. + 3 cases from 2008. + 7 cases from 2009. + 30 cases from 2010.

¹¹ EE: 6 of the received EAW's issued for the extension of surrender, in 2 cases the EAW was withdrawn, 1 person released as EAW has not been forwarded in time and 1 person doesn't have connections with Estonia.

	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?			139 ¹²		565	37		453		307		19												34			70	
5.4. Of those surrendered, how many did not consent to the surrender?			99 ¹³		414	4		436		294		1												14			67	

¹² CZ: 121 + 1 case from 2007 + 3 cases from 2008 + 1 case from 2009 + 13 cases from 2010.

¹³ CZ: 76 + 6 cases from 2009 + 17 cases from 2010.

	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?			12		135 14	none		50		116		1											4				7	

¹⁴ DE: In (the other) 47 cases the European arrest warrant was withdrawn.

	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
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6.2. Which were the grounds for refusal?																																				

	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)?			40		15,1 days	8		14		4 weeks ¹⁵		10-15 days												31 days		approximately 14 days		

¹⁵ IE: Currently 4 weeks for a case in which the subject immediately consents to surrender on arrest.

	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
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7.2. 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 on the surrender of the person sought)?																															

¹⁶ DE: In the abovementioned proceedings in which the requested person is in custody in Germany either serving a sentence or remanded in custody, the relevant period is counted only from the moment the person is detained solely for the purposes of extradition.

¹⁷ IE: For a typical case.

	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?			9		20	none		15		310 ¹⁸		none												1			3	

¹⁸ IE: Statistics available from 2007 only.

	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
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8.2. In how many of those cases was Eurojust informed?			2		none ¹⁹	none		none		310		none												1				3
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¹⁹ DE: Pursuant to Section 83 c paragraph 4 of the German Law on International Legal Assistance in Criminal Matters, Eurojust must only be informed in exceptional circumstances. None of the cases concerned exceptional circumstances.

	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
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9.1. In how many cases were the 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?			3		468 20	none		154	none	none		none																		1		none	
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DE: If surrender is performed by land, the federal system in Germany means that the law enforcement authorities of all *Länder* through the territory of which the requested person is to travel to be involved. This leads to delays. As a rule, however, the 10-day time limit is only slightly exceeded. The majority of surrenders were to Poland. The timely taking over of requested persons by the Polish authorities is not always guaranteed.

	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
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9.2. In how many of those cases was the person released, according to Article 23(5) of the Framework Decision?			none			none		none		none		none												none			none	
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	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?			48 21		81 ²²	24		25		180		none												25 ²³			17	

²¹ CZ: 42 nationals + 6 residents.

²² DE: 65 arrest warrants were executed against German nationals and 16 arrest warrants were executed against persons resident in Germany. In 26 cases, German nationals were surrendered.

²³ SK: The judicial authorities of the Slovak Republic executed EAWs with regard to Slovak nationals in 25 cases. The Slovak Republic does not investigate the residence of arrested persons.

	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	
10.2. 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?			38 24		42 ²⁵	24		24		none		none												no statistics available			9	

²⁴ CZ: 33 nationals + 5 residents.

²⁵ DE: 26 cases concerning German nationals, 16 cases concerning foreign nationals, see 10.1.

	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	
11. 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?			none		none	none				statistics not available		none												No statistics available				

²⁶ 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).

	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
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12. Is there any other information regarding the operation of the European arrest warrant that you would like to give?						no		no		no		no																		no			no		
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Replies to question 6.2

"Which were the grounds for refusal?"

GERMANY

- The requested person was not in Germany: 7
- The European arrest warrant did not satisfy the formal requirements: 6
- The offence was not liable to a maximum custodial sentence of at least 12 months under the law of the requested Member State: 1
- The requested person had already been convicted of the same offence in another Member State by a judgment having the force of *res judicata*: 1
- Execution was requested on the basis of a judgment *in absentia* without the admissible conditions pursuant to Article 5 of the Framework Decision having been fulfilled: 18
- Prosecution or enforcement of the sentence was statute-barred under German law: 19
- There was no double criminality for an offence not included in the list in Article 2(2) of the Framework Decision: 9
- Extradition would have violated European public policy (*ordre public*): 1
- The requested person was being prosecuted in Germany for the same offence: 1
- It cannot be presumed that the requesting State would grant a similar request from Germany (non-reciprocity): 1
- An alien who had his habitual residence in Germany did not consent to extradition for the purposes of execution of the sentence: 22
- A German national did not consent to extradition for the purposes of execution of the sentence: 44
- The instigation of criminal proceedings for the same offence as that on which the request was based had been refused, or criminal proceedings which had already been instigated for the same offence as that on which the request was based had been abandoned: 2
- An extradition request from a third State had been given priority: 3

SLOVAK REPUBLIC

- withdrawal of EAW by the issuing state
- the act on which the European arrest warrant is based does not constitute an offence under the law of the Slovak Republic

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)
- *Non refoulement*. Subject granted asylum from requesting state.
- Article 26 of the Framework Decision. The Court decided that, as the subject had been held in custody in this jurisdiction for the same time period as that to which he had been sentenced, there was no longer an outstanding sentence to be served and the warrant was void.
- Identification
- Health
- Extraterritoriality

CZECH REPUBLIC

(5) Act does not constitute an offence under the CZ law.

(1) Czech national - act committed before 1.11.2004.

(11) Person is prosecuted for the same act as that on which the EAW is based.

(4) Requested person is the national and the EAW has been issued for the purposes of execution of a custodial sentence.

SPAIN

Criminal prosecution is statute-barred, double criminality, ne bis in idem, the person was being prosecuted in Germany for the same offence, a Spanish national did not consent to surrender for the purposes of execution of the sentence.

SWEDEN

- 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 (3)
- Not a crime according to Swedish law/Dual criminality could not be established (1)
- The court did not accept that the material provided from the issuing authority (inter alia the extract from the relevant laws) meant that the person in question was guaranteed the right to a new trial (1)

Replies to question 12

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

GERMANY

The figures given are based on a statistical survey covering cases in which surrender took place in 2011 and for which the competent judicial authority of the relevant *Land* submitted the relevant report to the Federal Office of Justice by 15 January 2012.

Experience has shown that reports on extradition proceedings concluded in 2011 are sometimes, in isolated cases, not submitted until after 15 January 2012. Those cases will be included in the statistics for 2012.

IRELAND

The statistics given below relate to the number of European arrest warrants rather than to the number of persons. In some instances more than one warrant may have been received and executed in respect of a person.

CZECH REPUBLIC

28 cases were included in different way (e.g. withdrawal of an EAW, person was located on the territory of another Member State, EAW was cancelled, etc.).

In 19 cases the surrender was postponed.

In 7 cases the consent was given with the prosecution for other offences.

In 39 cases the procedure have not been yet closed.