



An Roinn Dlí agus Cirt
Department of Justice

Report

On the operation of the European Arrest Warrant Act 2003 (as amended) for the year 2020 made to the Houses of the Oireachtas by the Central Authority in the person of the Minister for Justice pursuant to section 6(6) of the European Arrest Warrant Act 2003.

Introduction

The European Arrest Warrant Act 2003

The *European Arrest Warrant Act 2003* came into operation on 1 January 2004.

The Act gives effect to the Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States. The purpose of the Framework Decision is to simplify extradition procedures between Member States of the European Union.

Section 6(6) of the Act provides that the Central Authority shall prepare an annual report to the Oireachtas on the operation of Part 2 of the Act in the preceding year. Part 2 relates to European arrest warrants received in the State and European arrest warrants issued by the State.

The Central Authority

The Act provides that the Minister for Justice will be the Central Authority.

The functions of the Central Authority are administered through the Criminal Mutual Assistance and Extradition Division of the Department of Justice. The functions are:

- (a) To receive European arrest warrants issued by a judicial authority in another state,
- (b) To seek further information or documentation from the issuing judicial authority when directed to do so by the High Court,
- (c) To apply, or cause an application to be made to the High Court for endorsement of a European arrest warrant for execution,
- (d) To liaise with other relevant state authorities (the Office of the Attorney General, the Chief State Solicitor's Office, the Office of the Director of Public Prosecutions and An Garda Síochána) in relation to European arrest warrants,

- (e) To communicate on behalf of the High Court with the issuing judicial authorities on matters relevant to the processing of European arrest warrants,
- (f) To transmit to other Member States European arrest warrants issued by the High Court, and
- (g) To inform relevant parties of surrender under sections 15 and 16 of the European Arrest Warrant Act 2003, as amended.

Endorsement of Warrant

Upon receipt of a European arrest warrant, following administrative verification, and legal advice, the Central Authority forwards it to the Office of the Chief State Solicitor. The Chief State Solicitor makes an application to the High Court to have the warrant endorsed for execution.

If the High Court is satisfied that the warrant is in order, it may endorse the warrant for execution. Once endorsed, the warrant is forwarded to the Garda Síochána to be executed. The subject of the warrant must be brought before the High Court as soon as possible after arrest.

High Court Procedures

On his or her first appearance before the High Court the person may be remanded in custody or granted bail at the Court's discretion. A date is set for a hearing of the surrender proceedings that must commence within 21 days of the date of the arrest.

If a person does not consent to surrender, the High Court may order the person's surrender where there is compliance with the provisions of the Act.

The High Court has an initial 60 days (extendable up to 90 days) from the date of the arrest of the person to decide whether to order surrender. If, at the end of that period the High Court decides not to order surrender, or has not yet made an order, it directs the Central Authority to inform the issuing authority and, where appropriate, Eurojust, of the reasons. In general the reasons for delay relate to legal proceedings that are still ongoing where the person whose

surrender is sought has exercised his/her right to make a complaint under Article 40.4.2 of the Constitution, has appealed to the Court of Appeal or has appealed on a point of law to the Supreme Court.

Issuing of European arrest warrants by the State

Part 2 of the 2003 Act sets out the procedure for the issue of a European arrest warrant in the State. A European arrest warrant may be issued by the High Court when an application is made by the Director of Public Prosecutions for such a warrant. Before the court will issue a European arrest warrant, there must be in existence a warrant issued by a court in the State for the arrest of the person, and the court must be satisfied that the person is in one of the other European Union Member States.

The Director of Public Prosecutions, to whom the European arrest warrant is issued, forwards the European arrest warrant to the Central Authority, which transmits it to the relevant Member State.

Brexit

The UK left the EU on Friday 31 January 2020 on the terms set out in the Withdrawal Agreement, including the Protocol on Ireland/Northern Ireland. Although the UK was no longer a member of the EU, the Withdrawal Agreement provided for a transition period up to 31 December 2020. On 24 December 2020, the EU and UK negotiating teams reached agreement in principle on a Trade and Cooperation Agreement (TCA), which came into effect on a provisional basis from the end of the transition period. The TCA provides for the surrender of persons wanted for prosecution or punishment as between the Member States of the European Union and the United Kingdom at Title VII of Part 3.

Pursuant to Section 2 of the European Arrest Warrant (Application to Third Countries and Amendment) and Extradition (Amendment) Act, 2012, (which enables the application of provisions of the European Arrest Warrant Act, 2003 to States other than EU Member States), the European Arrest Warrant (Application to Third Countries) (United Kingdom) Order, 2020 was signed by

the Minister for Foreign Affairs, on 31 December, 2020. This Order applies the provisions of the European Arrest Warrant Act, 2003 to the United Kingdom of Great Britain and Northern Ireland, in light of the coming into operation of the EU-UK TCA.

As all Annual Reports on the EAW to date have shown, the UK remains the state with which Ireland has the greatest interaction. The departure of the UK from the EU has considerable consequences for Ireland on a wide range of issues. However, in the context of combating crime and terrorism, the necessity to maintain a functioning system of extradition between the two States has been identified as the key priority. In that regard, the Department of Justice continues to monitor developments closely.

Covid-19

In 2020 the COVID-19 crisis had a considerable impact on the EAW surrender procedure which often lead to difficulties in carrying out the surrender of the requested person to the issuing State. In certain cases it became impracticable to transfer the requested person to the issuing State due to the practical and legal measures adopted at national level to combat the COVID-19 crisis. Ireland is also reliant on transfers taking place by air and due to persistent limitations on commercial flights; both as to their frequency and destinations, the Irish High Court was left with no alternative but to postpone numerous surrenders, causing surrenders to take longer to effect under the EAW framework.

Surrender - EU, Iceland and Norway Agreement

The Agreement between the EU and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the EU and Iceland and Norway, in accordance with Article 38(4) of that Agreement, came into force on 1st November 2019. In 2020, Ireland received two warrants from the Norwegian Authorities, which are included in the statistics in this European Arrest Warrant Annual Report for 2020. The European Union, Norway and Iceland adopted the Agreement in 2006, but its entry into force was subject to the completion of formalities by all States concerned.

Overview

Composition of the Report

Part 1 records developments in 2020 in relation to European arrest warrants received by the Central Authority by reference to the various stages in the process.

Part 2 records developments in 2020 in relation to European arrest warrants transmitted by the Central Authority.

Appendices

A number of appendices are also included setting out the following information:

Appendix 1 - Number of European arrest warrants received by Ireland in 2020 by Member State

Appendix 2 - Number of Surrender Orders executed by Ireland by year

Appendix 3 - Surrender Orders executed by Ireland in 2020 by Member State

Appendix 4 - Number of European arrest warrants sent by Ireland in 2020 by Member State

Appendix 5 - Number of Surrender Orders made to Ireland by year

Appendix 6 - Number of Surrender Orders made to Ireland in 2020 by Member State

Part 1
**Developments in 2020 in relation to European Arrest Warrants received
by Ireland**

Position in 2020 concerning European arrest warrants received in previous years

The number of European arrest warrants on hand i.e. not yet executed, at 1 January 2020 was 665.

The number of European arrest warrants received in 2020

A total of 383 European arrest warrants were received from Member States by the Central Authority in 2020.

Types of offences

European arrest warrants received during 2020 cited a wide range of offences. Among the principal offences cited were murder/grievous bodily harm; sexual offences, including rape; sexual abuse of children; drug offences; robbery/assault; fraud and human trafficking.

European arrest warrants endorsed

172 European arrest warrants received in 2020 were endorsed by the High Court in 2020.

Number of persons arrested pursuant to a European arrest warrant

73 arrests were made in this jurisdiction in 2020 pursuant to European arrest warrants received and endorsed in 2020.

Notifications under Section 16(10) and 16(11) of the European Arrest Warrant Act 2003

Section 16(10) of the Act applies where the High Court has not ordered a surrender within 60-90 days of an individual's arrest. In such cases, the High Court is required to direct the Central Authority to notify the issuing judicial authority and Eurojust as to the reasons for the decision. 69 such notifications were made in 2020.

Number of European arrest warrants received from Member States completed in 2020

A total of 351 European arrest warrants were completed in 2020, of which 106 were received in 2020.

Number of complaints under Article 40.4.2 of the Constitution

There were 0 complaints made under Article 40.4.2 of the Constitution in 2020.

Number of Cases appealed to the Court of Appeal in 2020

There were 11 appeals to the Court of Appeal in 2020.

Number of Cases appealed to the Supreme Court in 2020

There were 2 appeals to the Supreme Court in 2020.

Number of European arrest warrants on hand at 31 December 2020

There were 697 European arrest warrant cases on hand at 31 December 2020. Of these, 277 cases were received in 2020.

Surrender Orders executed by the State since 1 January 2020

There were 91 orders for surrender involving 79 individuals executed by the State in 2020 (an issuing state may, on occasion, transmit a number of European arrest warrants for a single individual).

Total orders for surrender executed between 2004 and 31 December 2020

1,544 orders for surrender have been executed, since the coming into operation of the European Arrest Warrant Act on 1 January 2004, up to 31 December 2020.

Part 2
**Developments in 2020 in relation to European Arrest Warrants
transmitted by the Central Authority**

Role of the Central Authority

The role of the Central Authority in relation to the issue by the State of European arrest warrants is to transmit the warrant to the executing Member State. The Central Authority also acts as a conduit where the executing Member State requests further information or documents.

Position in 2020 concerning European arrest warrants transmitted between 2004 and 2019

A total of 205 European arrest warrants, transmitted by the Central Authority to other Member States in previous years, were still ongoing at 1 January 2020.

Number of European arrests warrants transmitted by the Central Authority in 2020

A total of 161 European arrest warrants were transmitted by the Central Authority to other Member States in 2020.

Types of offences

The types of offences cited in the European arrest warrants transmitted by the Central Authority in 2020 included murder, sexual offences, drugs offences, assault, robbery and fraud.

Number of surrender orders made to the State in 2020

49 surrender orders were made to the State in 2020 involving 47 individuals who were the subject of European arrest warrants issued by Ireland. These 47 individuals were surrendered to the State in 2020. Of the former, 16 surrender orders related to European arrest warrants transmitted by the State in 2020.

Number of European arrest warrants transmitted and still ongoing at 31 December 2020

299 European arrest warrants transmitted by the State were still ongoing on 31 December 2020. 140 of these warrants were transmitted during 2020.

Number of surrender orders made to the State since 1 January 2004

640 surrender orders have been made to the State by other Member States since the coming into operation of the European Arrest Warrant Act on 1 January 2004 up to 31 December 2020.

Appendix 1
Number of European Arrest Warrants received by Ireland in 2020 by Member State

Member State	Number of European Arrest Warrants received
Austria	1
Belgium	3
Croatia	5
Czech Republic	8
Germany	4
Hungary	3
Italy	1
Latvia	4
Lithuania	15
Netherlands	1
Norway	2
Poland	59
Portugal	1
Romania	14
UK	262 ¹
Total	383

¹ The Central Authority experienced a notable increase in European arrest warrants received from the UK during the period 2017 - 2020. This was primarily as a result of the UK's commencement of participation in the Schengen Information System (SIS II) and a consequential policy of sending non-participating States, such as Ireland, all warrants registered by the UK on the SIS II. The figure is therefore not reflective of the actual number persons of interest to the UK that are resident in Ireland but rather those thought by the UK to be resident across the EU in general.

Appendix 2
Number of surrender orders executed by Ireland by year

Year	Number of surrender orders executed
2004	2
2005	7
2006	45
2007	67
2008	73
2009	69
2010	162
2011	176
2012	149
2013	157
2014	115
2015	96
2016	82
2017	73
2018	71
2019	109
2020	91
Total	1544

Appendix 3
Number of surrender orders executed by Ireland in 2020 by Member State

State of Origin	Number of surrender orders executed by Ireland in 2020
Czech Republic	3
France	1
Germany	3
Hungary	1
Lithuania	10
Poland	42
Romania	4
Slovakia	2
Spain	1
UK	24
Total	91

Appendix 4
Number of European arrest warrants sent by Ireland in 2020 by Member State

Member State	European Arrest Warrants transmitted in 2020
Cyprus	1
France	3
Germany	4
Hungary	3
Italy	2
Latvia	1
Lithuania	6
Netherlands	3
Poland	12
Portugal	2
Romania	11
Spain	8
UK	105
Total	161

Appendix 5
Number of surrender orders made to Ireland by year

Year	Number of surrender orders made
2004	1
2005	17
2006	21
2007	28
2008	25
2009	31
2010	29
2011	34
2012	51
2013	45
2014	56
2015	47
2016	46
2017	47
2018	62
2019	51
2020	49
Total	640

Appendix 6

Number of surrender orders made to Ireland in 2020 by Member State

Member State	Number of surrender orders made
Belgium	1
Hungary	1
Latvia	1
Lithuania	1
Poland	3
Romania	7
UK	35
Total	49