



**An Roinn Dlí agus Cirt
agus Comhionannais**
Department of Justice
and Equality

REPORT

**On the operation of the European Arrest Warrant Act
2003 (as amended) for the year 2017 made to the
Houses of the Oireachtas by the Central Authority in
the person of the Minister for Justice and Equality
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 and Equality 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 and Equality. The functions are:

- (a) To receive European arrest warrants issued by a judicial authority in another state,
- (b) To seek further information or documentation, where appropriate, from the issuing judicial authority,
- (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 the Garda Síochána) in relation to European arrest warrants,

- (e) To communicate 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,
- (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 subject to 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, and 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 European arrest warrants 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

While this Report relates to operational matters concerning the European Arrest Warrant in 2017, it must be acknowledged that at the time of drafting this Report, the European Union Member States have recently endorsed the Withdrawal Agreement and Political Declaration on the future EU-UK relationship and it remains to be seen whether this Agreement will meet with the approval of the UK Parliament.

The departure of the UK is particularly significant 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. As all Annual Reports on the EAW to date have shown, the UK remains the state with which Ireland has the greatest interaction. In that context, the Minister has requested the Department of Justice and Equality to examine the implications of Brexit for extradition between the two

States and to consider the options available to address the various possible outcomes to the Brexit negotiations.

Report

The Report is comprised of two parts:

Part 1 records developments in 2017 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 2017 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 the Central Authority in 2017

Appendix 2 - Surrender Orders executed by the State since 1 January 2004

Appendix 3 – Number of European arrest warrants transmitted by the Central Authority in 2017

Appendix 4 - Number surrendered to the State since 1 January 2004.

Part 1

Developments in 2017 in relation to European Arrest Warrants received by the Central Authority

Position in 2017 concerning European arrest warrants received in previous years

The number of European arrest warrants on hand at 1 January 2017 was 373.

The number of European Arrest Warrants received in 2017

A total of 357 European arrest warrants were received from Member States by the Central Authority in 2017 (See Appendix 1).

Types of offences

European arrest warrants received during 2017 cited a wide range of offences. Among the principal offences cited were murder/grievous bodily harm, sexual offences including rape and sexual abuse of children, drugs offences robbery/assault, fraud and human trafficking.

European arrest warrants endorsed

224 European arrest warrants received in 2017 were endorsed by the High Court in 2017.

Number of persons arrested pursuant to a European arrest warrant

70 arrests were made in this jurisdiction in 2017 pursuant to European arrest warrants received and endorsed in 2017.

Notifications under Section 16(9) and 16(10) of the European Arrest Warrant Act 2003

Section 16(9) and 16(10) of the Act applies where the High Court has decided not to order a surrender, or has not ordered a surrender within 60-90 days. 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 why.

67 such notifications were made in 2017.

The number of cases that have exceeded the time limits for processing, laid down in Article 17 of the Framework Decision, is a source of concern. The Central Authority is pursuing various avenues, including legislative changes, with a view to making improvements in this area.

Number of European arrest warrants received from Member States completed in 2017

A total of 250 European arrest warrants were completed in 2017 of which 93 were received in 2017 while a further 157 were received during the period 2004 to 2016.

Number of complaints under Article 40.4.2 of the Constitution

There was 1 complaint made under Article 40.4.2 of the Constitution in 2017.

Number of Cases appealed to the Court of Appeal in 2017

There were 3 appeals to the Court of Appeal in 2017.

Number of Cases appealed to the Supreme Court in 2017

There were 2 appeals to the Supreme Court in 2017.

Number of European arrest warrants on hand at 31 December 2017

There were 480 European Arrest Warrant cases on hand at 31 December 2017. Of these, 264 cases were received in 2017 while 216 cases were received between 2004 and 2016.

Surrender Orders executed by the State since 1 January 2017

There were 73 orders for surrender involving 60 individuals executed by the State in 2017 (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 2017

1273 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 2017 (see Appendix 2).

Part 2

Developments in 2017 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 2017 concerning European arrest warrants transmitted between 2004 and 2016

A total of 147¹ European arrest warrants, transmitted by the Central Authority to other Member States between 2004 and 2016, were still ongoing at 1 January 2017.

Number of European arrests warrants transmitted by the Central Authority in 2017

A total of 76 European arrest warrants were transmitted by the Central Authority to other Member States in 2017. (See Appendix 3).

Types of offences

The types of offences cited in the European arrest warrants transmitted by the Central Authority in 2017 included murder, sexual offences, drugs offences, assault and robbery and fraud.

¹ As a result of data becoming available subsequent to the publication of the 2016 Report, this figure has been adjusted to reflect the previously unrecorded closure of a further 23 cases received between 2004 and 2016. This includes 6 cases where surrender was executed.

Number surrendered to the State in 2017

47 persons who were subjects of European arrest warrants were surrendered to the State in 2017. Of these, 17 related to European arrest warrants transmitted in 2017, while 36² persons who were the subjects of European arrest warrants transmitted between 2004 and 2016, were surrendered also.

Number of European arrest warrants transmitted and still ongoing at 31 December 2017

159 European arrest warrants transmitted by the State were still ongoing on 31 December 2017. 54 of these warrants were transmitted during 2017 while the remaining 105 had been transmitted between 2004 and 2016.

Number surrendered to the State since 1 January 2004

478³ persons have been surrendered to the State since the coming into operation of the European Arrest Warrant Act on 1 January 2004 up to 31 December 2017. (see Appendix 4).

² This figure includes the 6 additional cases of surrender referred to in Footnote 1 above.

³ As footnote 2

Appendix 1

Number of European arrest warrants received by the Central Authority in 2017

Member State	Number of European arrest warrants received
Bulgaria	1
Czech Republic	6
Estonia	1
France	1
Germany	3
Greece	1
Hungary	9
Latvia	4
Lithuania	26
Netherlands	3
Poland	83
Romania	10
Slovakia	1
Spain	1
UK	207 ⁴
Total	357

⁴ The Central Authority has experienced a notable increase in European Arrest Warrants received from the UK during 2017. This is 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

Surrender Orders executed by the State since 1 January 2004

Year	Surrender executed	To Member State
2004	2	UK (1) France (1)
2005	7	UK (6) Spain (1)
2006	45	UK (25) Lithuania (9) Poland (7) France (1) Latvia (1) Hungary (1) Estonia (1)
2007	67	UK (32) Lithuania (16) Poland (8) Latvia (6) Czech Rep. (5)
2008	73	UK (32) Poland (17) Czech Rep (7) Lithuania (6) Latvia (3) Romania (3) Germany (2) Italy (1) Netherlands (1) Slovakia (1)
2009	69	UK (21) Poland (20) Lithuania (13) Latvia (5) Czech Rep. (2) Germany (2) Romania (2) Hungary (2) France (1) Estonia (1)
2010	161	Poland (87) UK (34) Lithuania (15) Czech Rep. (7) Latvia (4) Romania (4) Holland (3) Slovakia (3) Estonia (1) France (1) Germany (1) Netherlands (1)

Year	Surrender Executed	To Member State
2011	177	Poland (113) UK/(19) Romania (8) Czech Republic (8) Hungary(7) Germany (3) Latvia (3) Lithuania (3) Slovakia (3) Spain (3) Sweden (2) Belgium (2) Estonia (1) France (1) Netherlands (1)
2012	149	Poland (101) UK (22) Lithuania (8) Czech Republic (7) Latvia (4) Romania (3) Slovakia (1) Austria (1) Hungary (1) Netherlands (1)
2013	157	Poland (100) UK (25) Lithuania (10) Latvia (5) Germany(4) Hungary (4) Czech Republic (3) Romania(2) Slovakia (2) France (1) Austria(1)

Year	Surrender Executed	To Member State
2014	115	Czech Republic (3) Germany (1) Latvia (2) Lithuania (8) Poland (67) Romania (2) Slovakia(3) UK(29)
2015	96	Croatia (1) Czech Republic (4) France (1) Germany (1) Hungary (1) Latvia (2) Lithuania (9) Netherlands (2) Poland (50) Romania (4) UK (21)
2016	82	UK (31) Poland (30) Czech Republic (8) Lithuania (6) Germany (3) Romania (3) France (2) Italy (1) Sweden (1) Spain (1) Croatia (1)
2017	73	UK (31) Poland (19) Czech Republic (9) Lithuania (9) Netherlands (3) Slovakia (1)
Total	1273	

Appendix 3

Number of European arrest warrants transmitted by the Central Authority in 2017

Member State	EAW transmitted in 2017
UK	60
Spain	4
Lithuania	3
Bulgaria	2
Portugal	2
Romania	2
Sweden	2
Poland	1
Total	76

Appendix 4

Number surrendered to the State since 1 January 2004

Year	Surrendered	From Member State
2004	5	UK (4) Spain (1)
2005	12	UK (12)
2006	19	UK (17) Spain (2)
2007	24	UK (22) Spain (1)
2008	27	Netherlands (1) UK (25) Romania (1) Germany (1)
2009	35	UK (27) Romania (2) Estonia (2) Portugal (1) Lithuania (1) Poland (1) Netherlands (1)
2010	26	UK(22) Spain (1) Poland (1) Latvia (1) France (1)
2011	36	UK (31) Germany (1) Lithuania (1) Netherlands (1) Poland (1) Spain (1)
2012	52	UK (39) Spain (2) Romania (2) Netherlands (2) Poland (2) Lithuania (2) Bulgaria (1) Czech Republic (1) Slovakia (1)
2013	40	UK (30) Latvia (2) Spain (2) Bulgaria (1) Germany (1) Poland (1) Romania (1) Slovakia (1) Sweden (1)

Year	Surrendered	From Member State
2014	56	UK (39) Poland (2) Netherlands (3) Czech Republic (2) France (2) Portugal (2) Spain (1) Italy(1) Sweden (1) Finland (1) Cyprus (1) Bulgaria (1)
2015	47	UK (37) Romania (2) Latvia (1) Netherlands (2) Hungary (1) Spain (3) Poland (1)
2016	46	UK(30) Germany (1) Spain (7) Belgium (1) Finland (1) Lithuania (1) Romania (1) Netherlands (2) Poland (1) Latvia (1)
2017	47	UK (35) Lithuania (2) Portugal (1) Bulgaria (1) Spain (4) Latvia (1) Poland (2) Hungary (1)
Sub-Total	472	
	+ 6⁵	
Total	478	

⁵ See Footnote 1, Page 10.