



**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 2018 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.**

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. 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

Although this report relates to the operation of the EAW in 2018, it is considered appropriate to note that considerable planning and preparation across the criminal justice area has been ongoing to take account of the impact of Brexit. This includes planning and preparation in relation to ensuring the continuance of effective extradition arrangements between Ireland and the UK.

The EAW system is only open to member states of the EU. The UK have indicated that they are interested in negotiating an agreement based on the EU agreement with Norway and Iceland which provides for arrangements very similar to the EAW system. If this was agreed there would be very little change in the arrangements between the UK and Ireland.

Under the withdrawal agreement, the European Arrest Warrant (EAW) system continues to apply during the transitional arrangements until 31 December 2020.

It may be noted that separately to the EAW procedure, extradition continues to be possible between Ireland and the UK under the 1957 Council of Europe Convention on Extradition, to which Ireland and the UK are both party. In addition, if it is necessary to rely on extradition under the 1957 Convention, the legal changes brought about by the Brexit Omnibus Act 2019 mean that new arrangements will be ready to be applied immediately, to ensure minimal disruption to extradition procedures in the small number of cases where the UK has requested arrest and surrender of a person under an EAW. In that case, the Act would (i) allow the extradition of Irish citizens without the need for a specific bilateral and (ii) facilitate the faster transmission of extradition requests by inter alia allowing electronic methods of communications. While extradition under this process will be more cumbersome than existing arrangements, it will ensure that there is a workable system in place.

As the majority of 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 and Equality continues to monitor developments closely.

Overview

Composition of the Report

Part 1 records developments in 2018 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 2018 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 2018 by Member State

Appendix 2 - Total number of Surrender Orders executed by the Ireland by year

Appendix 3 - Surrender Orders executed by Ireland in 2018 by Member State

Appendix 4 - Number of European arrest warrants sent by Ireland in 2018 by Member State

Appendix 5 - Number of surrenders to Ireland by year

Appendix 6 - Number of surrenders to Ireland in 2018 by Member State

Part 1

Developments in 2018 in relation to European Arrest Warrants received by Ireland

Position in 2018 concerning European arrest warrants received in previous years

The number of European arrest warrants on hand at 1 January 2018 was 480.

The number of European Arrest Warrants received in 2018

A total of 398 European arrest warrants were received from Member States by the Central Authority in 2018.

Types of offences

European arrest warrants received during 2018 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

222 European arrest warrants received in 2018 were endorsed by the High Court in 2018.

Number of persons arrested pursuant to a European arrest warrant

71 arrests were made in this jurisdiction in 2018 pursuant to European arrest warrants received and endorsed in 2018.

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 why. 104 such notifications were made in 2018.

Number of European arrest warrants received from Member States completed in 2018

A total of 281 European arrest warrants were completed in 2018 of which 125 were received in 2018 while a further 156 were received during the period 2004 to 2017.

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 2018.

Number of Cases appealed to the Court of Appeal in 2018

There were 2 appeals to the Court of Appeal in 2018.

Number of Cases appealed to the Supreme Court in 2018

There were 5 appeals to the Supreme Court in 2018.

Number of European arrest warrants on hand at 31 December 2018

There were 597 European Arrest Warrant cases on hand at 31 December 2018. Of these, 273 cases were received in 2018 while 324 cases were received between 2004 and 2017.

Surrender Orders executed by the State since 1 January 2018

There were 71 orders for surrender involving 65 individuals executed by the State in 2018 (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 2018

1344 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 2018.

Part 2

Developments in 2018 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 2018 concerning European arrest warrants transmitted between 2004 and 2017

A total of 159 European arrest warrants, transmitted by the Central Authority to other Member States between 2004 and 2017, were still ongoing at 1 January 2018.

Number of European arrests warrants transmitted by the Central Authority in 2018

A total of 106 European arrest warrants were transmitted by the Central Authority to other Member States in 2018.

Types of offences

The types of offences cited in the European arrest warrants transmitted by the Central Authority in 2018 included murder, sexual offences, drugs offences, assault and robbery and fraud.

Number surrendered to the State in 2018

62 surrender orders were made in 2018 involving 60 individuals who were subjects of European arrest warrants who were surrendered to the State in 2018. Of these, 34 related to European arrest warrants transmitted in 2018, while 28 related to European arrest warrants transmitted between 2004 and 2017.

Number of European arrest warrants transmitted and still ongoing at 31 December 2018

186 European arrest warrants transmitted by the State were still ongoing on 31 December 2018. 75 of these warrants were transmitted during 2018 while the remaining 111 had been transmitted between 2004 and 2017.

Number of surrenders to the State since 1 January 2004

540 surrenders 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 2018, with 62 being made in 2018.

Appendix 1

Number of European Arrest Warrants received by Ireland in 2018 by Member State

Member State	Number of European Arrest Warrants received
Belgium	4
Croatia	5
Czech Republic	6
Estonia	1
Germany	3
Hungary	4
Italy	1
Latvia	8
Lithuania	11
Netherlands	2
Poland	80
Portugal	2
Romania	7
Slovakia	2
Sweden	2
UK	260 ¹
Total	398

¹ The Central Authority has experienced a notable increase in European Arrest Warrants received from the UK since 2017. This is 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

Total 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	161
2011	177
2012	149
2013	157
2014	115
2015	96
2016	82
2017	73
2018	71
Total	1344

Appendix 3

Surrender Orders executed by Ireland in 2018 by Member State

State of Origin	Number of surrender orders executed by the State in 2018
Croatia	1
Czech Republic	2
Estonia	1
Hungary	3
Latvia	3
Lithuania	7
Poland	29
Slovakia	1
Spain	1
Sweden	1
UK	22
Total	71

Appendix 4

Number of European arrest warrants sent by Ireland in 2018 by Member State

Member State	European Arrest Warrants transmitted in 2018
Belgium	1
France	3
Germany	4
Hungary	1
Italy	1
Latvia	2
Lithuania	4
Netherlands	3
Poland	6
Romania	6
Spain	6
UK	69
Total	106

Appendix 5

Number of surrenders to Ireland by year

Year	Number of surrenders
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
Total	540

Appendix 6

Number of surrenders to Ireland in 2018 by Member State

Member State	Number of individuals surrendered
France	1
Germany	1
Latvia	1
Lithuania	1
Netherlands	1
Poland	2
Romania	4
Spain	2
UK	49
Total	62