

European Arrest Warrant: Commission Sees Highlights and Lowlights

News

Thomas Wahl

The European Arrest Warrant (EAW) remains a success story, but Member States must properly implement the instruments of mutual recognition, including the EAW, to achieve the objective of developing and maintaining a European area of freedom, security and justice. This was **declared** by Commissioners *Věra Jourová* (Vice-President for Values and Transparency) and *Didier Reynders* (Commissioner for Justice) when they presented the **Commission report** on the implementation of the 2002 Council Framework Decision on the European Arrest Warrant (FD EAW) on 2 July 2020.

The report assesses how the FD EAW, as amended by Council FD 2009/299/JHA, has been transposed in all 27 Member States and the UK. It takes into account recommendations from previous evaluation rounds (led by the Council) and previous Commission implementation reports. This allows the Commission to draw overall conclusions on the application of the EAW from its beginning in 2004 until now. Nearly 186,000 EAWs have been issued since 2005, around one third of them were executed.

The Commission specifically assesses the implementation of the single core provisions of the FD EAW, including:

- The designation of the competent judicial authorities;
- The definition and the scope of the European Arrest Warrant;
- Fundamental rights and procedural rights of a requested person;
- Grounds for non-execution and verification of double criminality;
- Time limits for taking a decision and surrendering a requested person.

In general, the Commission is satisfied with the level of implementation in a significant number of Member States. Some progress has been made. For example, the lacking proportionality checks of European Arrest Warrants at the issuing stage in some Member States has been remedied. However, certain issues of compliance remain in some Member States, which have not addressed previous recommendations and/or have not implemented certain judgments of the CJEU. These issues concern, for instance, additional grounds for refusal or the non-observation of time limits. Still existing shortcomings hamper the effectiveness of the instrument and the (full) application of the principle of mutual recognition in criminal justice matters.

The Commission announced that it will continue to monitor individual Member States' compliance with the FD EAW. If necessary, it will initiate infringement proceedings to ensure complete and conform implementation throughout the EU.

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Published in
2020, Vol. 15(2) eucrim pp 110
– 111

ISSN: 1862-6947
<https://eucrim.eu>



The Commission assessment comes shortly after a comprehensive implementation report on the EAW by the European Parliament's Research Service that was commissioned by EP's LIBE Committee (see [separate news item](#); see also [eucrim 1/2020, 26](#)). The EPRS assessment draws conclusions as regards implementation of the EAW in the Member States and the recommendations on how to address identified shortcomings revolving around certain benchmarks (e.g., effectiveness, compliance with EU values, efficiency, and coherence).

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The project is co-financed by the [Union Anti-Fraud Programme \(UAFP\)](#), managed by the [European Anti-Fraud Office \(OLAF\)](#).



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