



JUDICIAL OFFICE

The European Arrest Warrant: Judicial Recommendations

European Arrest Warrant Judicial Network Project

Just/2011-2012/JPen/AG/2986



With financial support from
the Criminal Justice
Programme of the European
Union

Index

Executive Summary	3
Sources of Information	4
Completing the Warrant	6
The 'Aide Memoire' Documents ('Templates')	7
Training	8
Communication and Feedback	9
Other Matters	10
Summary of Recommendations	12
List of Annexes	13

Executive Summary

Overview

The European Arrest Warrant Judicial Network Project (EAWJNP) was a two year project which ran between November 2012 and November 2014. It was co-financed by a European Union Action Grant under the Criminal Justice Programme.

The project brought together judicial authorities from across the EU to explore the operation of the European Arrest Warrant and consider possible improvements in its implementation and application from a judicial perspective. The aims of the project were to increase mutual judicial understanding, co-operation and recognition, improve appreciation of the issues faced by individual Member States and increase co-operation between Member States.

The project was led by the Judicial Office with support from our partners – the Spanish Judicial Office, supported by the Spanish General Council for the Judiciary and the Spanish Training Academy and the Lithuanian Judicial Office, supported by the National Courts Administration of Lithuania. The project also benefitted from input from the Judicial College and the Swedish Training Academy.

We used three different methods to canvas judicial opinion and in total over 160 judicial authorities from 24 Member States played some part in the project. We began with an on line questionnaire, followed by a series of workshops held in London, Madrid and Vilnius. The information gathered by those means was discussed and refined at the final plenary conference in London in July 2014.

More detail on the structure of the project is attached at Annex A.

Main Findings

The project's main findings are:

1. Requests for further information cause delay.

From a judicial perspective, when there are delays in the warrant process, a common cause is requests for further information from the issuing authority by the executing authority. These may come about because of a lack of specific information on the warrant or because of a lack of background information about procedural differences between Member States.

Issuing judges told us they have no reliable means of verifying that they have included in the warrant all the information which will be required by the executing authority.

2. Judges want better information.

There is no comprehensive, reliable and up to date source of information on procedural differences between Member States available to assist judicial authorities. In the absence of this, requests for this information often have to be made to the issuing authority.

3. Issuing authorities want feedback.

Issuers told us they want feedback on the reasons for a refusal from the executing Member State. If this was available, they believe it would help to improve future applications.

I Sources of Information

a) Background

EAW judicial authorities currently use a variety of sources for the information they require. These are primarily:

1. The EAW handbook.

This is used occasionally by around half of respondents to the questionnaire.

2. Eurojust and the EJNI.

The majority of judges are aware of the assistance provided by these and around a third of respondents to the questionnaire had used one of them.

3. National and European case law, legislation and jurisprudence.

4. Websites.

The most commonly used are the EJNI website, Eurojust, those of EU institutions and national Ministries of Justice. A list of the websites the judges find most useful was compiled by the information working group after the plenary conference and is attached at Annex B.

5. Sources particular to individual member States.

These were widely used and a list of the main sources cited by participants is attached at Annex C.

6. Academic Sources.

This includes textbooks, academic literature and notes taken at conferences.

7. Other sources.

Judges also use advice from colleagues, Country of Origin Information (e.g. Council of Europe CPT Reports, Human Rights Watch Reports), the Criminal Procedure Code and international co-operation agreements.

b) Problems Encountered

Participants in the project identified the following deficiencies in the information currently available to them:

1. There is no central, comprehensive, up to date and reliable source of information on the relevant domestic laws in, and procedural differences between, Member States.

In order to be able to issue or execute an EAW, judicial authorities often need information regarding:

- i) Whether an offence was an offence in a particular Member State at the date of the offence;
- ii) Whether there are any guarantees of retrial following a trial in absentia;
- iii) The likely sentence and maximum penalty for a particular offence
- iv) The age of criminal responsibility

v) Any applicable domestic time bars or limitation periods.

In the absence of a resource which provides this information, requests for clarification and information often have to be made to the issuing authority, which causes delay.

2. The EJM website has some information participants find useful, such as the legal framework documents, amendments, the form to be used for an EAW, a 'wizard' for creating one and a handbook in the language of each Member State.

However, it contains no guidance as to the details which an executing state would require, and many of the reports from Member States evaluating the working of the EAW are several years old. The section containing descriptions of how each country operates the EAW scheme includes information which is now out of date. Participants considered this information of little practical use to a judge in an executing state and are concerned that, since extradition law is a rapidly developing area, out of date information can be unhelpful and misleading.

3. Issuing judges have no reliable means of tracking their cases or gaining formal feedback on the reasons for refusal to execute a warrant from the executing Member State.

c) Recommendations

1. Project participants suggested many improvements which could be made to the EAW handbook and a list of these is attached at annex D.

2. The view of the project plenary conference was that effective training of EAW judicial authorities could, in part, be achieved easily and cheaply, by using a new or existing website to host information which is relevant, current, and of practical legal use to judges who administer the EAW scheme.

The experience of delegates was that warrants containing detailed information encounter fewer challenges and they concluded that if issuing authorities are aware of the current jurisprudence of Member States which could result in a refusal to surrender a requested person, they are then better equipped to address any potential difficulty by providing the necessary information within the warrant.

3. Participants suggest an option on the EJM website, within the EAW field, headed "Information for Judges: current jurisprudence affecting surrender decisions in executing states". This section should be subdivided by Member State, searchable via key words and contain:

- A database of key judgments for each Member State uploaded from national websites
- Trial procedures for each country (as a table or flow chart), pre-trial and court procedures.
- Links to the criminal codes and other essential information for each country.
- The Framework Decision article by article, with case law.
- An index of offences, searchable by key word and providing links to material or an expert/contact point.
- A Code of Good Practice, possibly produced by the EJM.
- An anonymous database of refusal judgments.

All the information must be clear, up to date and properly translated. Key words, issues and information should be translated, ideally into all languages, but at least into English, French, German, Italian and Spanish.

4. In order to ensure information is accurate and up to date, a judge should be appointed in each Member State to be responsible for the information on that country. He/she would spend a day per month, during a year long appointment, providing and updating the information. This would include a couple of paragraphs on court processes in their country, key judgments and significant changes to legislation.

Alternatively, the central authority in each Member State could create a specific post within that authority to be responsible for inputting and updating the information. That post would consult with contact point national judges on the information and key points from their country.

The Lord Chief Justice of England and Wales has written to his opposite numbers in the other Member States and asked them to suggest a dedicated judge in their country who could collect this information and keep it up to date and accurate for their own country. The project will compile a list of the contacts suggested in replies to this letter.

II Completing the Warrant

a) Background

In the questionnaire, we asked executing authorities whether they experienced difficulties with the form or content of the EAWs they were asked to execute. Whilst the majority did not experience problems, around half said this was occasionally the case. When asked how often they found it necessary to ask for supplementary information, around a third needed to do this regularly or occasionally.

In order to establish whether this was causing delays in the process, we also asked executing authorities how often they were able to complete the execution procedure within the required time limit, and a fifth of respondents said they were able to do this rarely or never. The most frequently cited reason was lack of sufficient information and documentation with the initial warrant, and the time taken to receive this.

We asked issuing authorities how often their requests for surrender were denied and on what grounds, and the most common reason they gave was requests for further information, most often relating to 'in absentia' trials.

b) Problems

When information is lacking on the warrant, according to the executing authorities it usually involves:

- Insufficient detail on the facts and circumstances of the offence to identify the offence with which the requested person is charged.
- Information on the right of the defendant to a re-trial in the case of trials in absentia.
- Guaranties for the return of nationals/residents etc. and whether the sentence can be served in the executing state.

- Information on whether an offence was an offence in a particular Member State on the date of the offence.
- Likely sentences and maximum penalties, including information on life imprisonment and any human rights considerations.
- The age of criminal responsibility and treatment of juveniles
- Any applicable domestic time bars or statutes of limitation.
- A procedural history/chronology giving the reason for any delay in issuing the warrant and on whether a domestic warrant has been issued.
- In a 'conviction' warrant where the original sentence was suspended, information on why and when it was activated and any time remaining to be served.

The other main problems which can cause delay, according to both issuers and executors are questions on the competence of the issuing authority, poor translation, especially of offence details, and inaccuracies in formalities such as case numbers. Some also cited appeals to second instance courts as a significant cause of delay.

c) Recommendations

The conclusion of the judges is that the situation could be improved, and delays reduced, by better training of issuers to appreciate the perspective of executors (see Section IV). There should also be consideration of proportionality, dual criminality, double jeopardy and list offences before the warrant is issued. Training of issuers should be focussed on ensuring the inclusion of all necessary detail which will be needed by the executing authority, on the warrant.

A number of participants also believe that a standardised 'aide memoire' to ensure all the relevant information is included in the warrant at the time of issue could reduce delays, and a mechanism for feedback on refused warrants would help issuing authorities to better understand the reasons for refusal (see Section III).

III The 'Aide Memoire' Documents ('Templates')

a) Rationale and Development

To address both the executing authorities' problem of insufficient information being provided in issued warrants and the issuing authorities seeking to have feedback on the reasons their warrants were refused, our Spanish partner organisation developed two 'templates' as a mechanism for the exchange of information. There are two versions – one for use during the issuing process and one for execution.

These are intended to be voluntary documents, available to judicial authorities to use if they find them useful. They would sit alongside the warrant and be used to improve and facilitate communication between the issuer and the executing authority and to standardise the format of information exchanged. They need to be accompanied by an explanation to users of what they are for – that they are not to affect the decision making process, but to facilitate post court processes.

The response to these documents during the course of the project was mixed and opinions varied as to their usefulness. The documents were refined during the course of the project, incorporating

the comments of participants, and the explanation of their function and the advantages and disadvantages of their use, raised by participants, are attached at Annex E. The final versions of the issuing and execution documents are attached at Annex F.

b) Recommendations

These documents should be available electronically, must be simple to complete and secure, and will need to be translated into all languages of the Member States – they are currently available in English and Spanish. They will also need to be hosted on an appropriate website. Once the documents are available, an awareness raising process will be required, either during specialist workshops or seminars, via national contacts points or via a website.

We recommend that funding should be made available so that these documents can be produced in an electronic format and translated initially into French and German and then into the other Member State languages. They should be available, along with the explanatory note, on the 'Information for Judges' section of the e-justice website and given prominence to raise awareness of their existence among issuing and executing authorities.

IV Training

a) Background

Training was mentioned frequently by participants in the project and participants considered how this should be constructed and disseminated, how it should be funded, how language barriers could be overcome, how often (and by what method) training events should be held and whether they should be held jointly for judges and prosecutors or solely for judges

It was also felt that access to a central source of information would enable judicial authorities to increase their knowledge and understanding of other Member States systems outside formal training mechanisms. (see Section I).

b) Problems

Participants concluded that there should be two levels of training – entry level for those beginning work with the EAW and advanced level for more experienced judges. The entry level materials should use e-learning and case studies and be done at a national level. For issuers, the initial focus should be on looking at issue from the perspective of the executing authority.

At the advanced level training should be via seminars, exchange programmes, conferences and virtual meetings. There could also be refresher training. Some training should involve both judges and prosecutors and some only judges and some could involve standardised training packages which could be used in different Member States.

E-learning and virtual training are valuable, but the judges believe they are no substitute for face to face learning, question and answer sessions or learning from experienced judges.

Awareness of the training currently available was patchy amongst participants in the project and it was felt that not enough specialist training was available. Colleagues from the National Courts Administration of Lithuania undertook to liaise with the EJTJN to encourage national training organisations to include EAW law and practice on their websites and raise awareness of the subject. Other participant judges investigated face to face training events, how to increase awareness of available courses and how to disseminate the information from those events more widely. A suggested strategy for this has been drafted by a participant judge and is attached at Annex G.

So that judges have access to the information they require to increase their knowledge of the systems in other Member States, one participant judge reviewed the content of the EJM and EJTJN websites and made recommendations on how its content and navigation could be improved. Her conclusions are included in Annex B.

c) Recommendations

The project has produced a video 'walkthrough' where an experienced executing judge talks issuing authorities through the information and considerations which they will need to include on the warrant. This should be made available to judges via a suitable website and should ideally be made available in all languages. It is currently available in English, French and German and can be found at:

<http://www.judiciary.gov.uk/publications/european-arrest-warrant-judicial-recommendations-video-english/>

<http://www.judiciary.gov.uk/publications/european-arrest-warrent-video-french/>

<http://www.judiciary.gov.uk/publications/european-arrest-warrant-judicial-recommendations-video-german/>

An English transcript is attached at Annex H.

A programme of regular exchanges to specialist EAW courts should be arranged to improve understanding of other Member States' systems. Judges who participate could then disseminate their knowledge to colleagues at a national level. Participants believe these would be most valuable if they were arranged between countries which have the most interactions with each other.

A mechanism should be created whereby papers can be cascaded to relevant judges from appropriate courses and events, including those on comparative law and Human Rights. Course outcomes could be put on national and European websites to enable learning points to be widely disseminated and encourage commonality of approach. The central source of information for EAW judicial authorities could provide links to these resources.

Judges believe that the EAW information currently available on the EJTJN website should be edited, augmented and re-written and clustered into suites for ease of reference. To ensure that it is always correct and up to date, time should be made available for judges to work alongside technical experts to regularly refresh the content (see Section I).

V Communication and Feedback

a) Background

A Communications network to facilitate both formal and informal contact between specialist EAW judges, was raised by participants throughout the project as potentially very helpful to increase mutual trust and understanding between judicial authorities. It would also enable more experienced judges to assist the more inexperienced, common problems and solutions could be discussed, and this would encourage uniformity of approach.

Some judges thought the existing networks (primarily the EJM) were sufficient and a specialist EAW network was unnecessary, but most participants, especially those from countries where there is no direct contact between the issuing and executing authorities, believe a specialised network would be very useful.

b) Practical considerations

The main problems which would need to be addressed are who would co-ordinate such a network, how it would be funded, how suitable members would be identified and translation. Participants consider that no sensitive information should be shared over such a network, but it should be password protected and communication (at least via any contact points) would need to be in English, as a starting point.

The communications working group at the plenary conference considered the following options:

- Funding from the EC, EJTN or EJM for a social/professional network which would also hold face to face meetings, discussions and exchanges. Seminars or workshops would be held annually, rotating between Member States.
- The EAW Judicial Network could be put on a more formal footing and provide some or all of the above.
- A programme of exchanges and observations could be arranged, for judges from all countries, but language issues would need to be addressed.
- Regular updates or newsletters, with judges writing articles to explain particular issues. This would require an editorial board.

c) Benefits

All our project participants said they find contacts made at specialist workshops and conferences such as those held during our project extremely useful, particularly for the interaction they promote between the issuing and the executing authorities. They believe more regular contact between these specialist authorities and between judges from different Member States is key to improving the warrant process.

VI Other Matters

Other matters were raised by project participants either in their answers to questionnaire questions or during the course of the workshop series. The project does not make any specific recommendations with regard to these areas.

a) Human Rights

Around a quarter of respondents to the questionnaire said human rights issues were raised regularly or occasionally in the cases they dealt with and the subject was discussed frequently during the workshop series. Judges cited 'Ne bis in idem' issues and cases where imprisonment conditions were questioned by the executing authority. The most common articles raised were:

1. Article 3, mainly on prison conditions, often in Eastern European Member States and on protection for police informers or sex offenders.
2. Article 5
3. Article 6 on fair procedure.

4. Article 8 on the right to family life, with some judges stating this was raised in nearly every case.

Participants noted that approaches differ on the risk of torture (Article 3), life imprisonment (Article 5) and Article 8, but some felt that mutual trust is required on the safeguarding of human rights in Member States and this presumption should not be double checked by an executing Member State.

b) Proportionality

This was raised at each stage of the project, and featured in discussions on many topics. Issuers said the considerations they bore in mind included the age of proceedings and any possible disproportionate impact on the citizen's life were a warrant to be executed, balanced against the likely sentence. All participants believed it was necessary for issuers to have an awareness of proportionality, and they discussed whether this should be considered when a decision is taken to issue.

c) Mutual Recognition

The majority of judicial authorities who responded to the questionnaire had rarely or never been asked to provide additional information by an executing jurisdiction which they did not consider necessary bearing in mind the principle of mutual recognition. However around a fifth said it occurred occasionally or regularly.

The most common Member states making these requests are the UK and Germany, with Poland, the Netherlands, Ireland, France, Spain and Italy also mentioned.

Respondents said that information was often requested due to a lack of understanding of differences between jurisdictions, although there were also queries relating to prison conditions and the validity of the issuing judicial authority. Some had received questions from common law countries on the merits of the case and the applicable law in the issuing state which they considered went beyond the scope of the framework decision.

d) Harmonisation

Variations between the processes and procedures in the Member States were raised regularly throughout the project. The main areas of discussion were:

i) The number of warrants

Project participants felt that guidance would be helpful on the appropriateness of issuing either a single or separate warrants.

Where there are multiple offences, issuers were divided on whether one combined EAW or multiple warrants should be issued. Some Member States do not combine accusation and conviction cases in one EAW. Judges told us that cumulative prison sentences are common in Italy, as are detention orders covering two or more prison sentences, and an EAW can only cover one sentence. Therefore issuers must prepare two or more warrants and the executing Member State has to decide on each individually, which introduces complications.

ii) EAWs as an investigative tool.

Around a quarter of executing authorities regularly encountered instances where it appeared that an EAW was being used as an investigative tool (rather than to conduct a criminal prosecution or execute a custodial sentence) and three quarters encountered this problem occasionally.

Respondents cited the following issuing Member States in their replies (in decreasing order of frequency): France, Belgium, Spain, Italy, Bulgaria and Hungary.

Often this was due to poor wording i.e. the use of wording meaning 'wanted for prosecution' but expressed as 'suspect', but there are also different views in the various Member States about the difference between an investigation and a prosecution: a process which in one country would be considered as an investigation, could in another be considered a prosecution.

iii) Participants also discussed the possibility of amendments to the Framework Decision and harmonisation of European criminal codes, for example on:

- The variations in the age of criminal responsibility
- A common definition of absentia
- Dual criminality, list offences and double jeopardy.
- Proportionality

A quantitative summary of the responses to the questionnaire can be found at Annex I.

Summary of Recommendations

1. An "Information for Judges" section should be created on the EAW section of the EAJN website and the information currently available should be edited. A judge or central authority contact point should be appointed in each Member State to be responsible for keeping the information on that country accurate and up to date.
2. The 'aide memoire' documents should be produced in an electronic format, translated and made available on the 'Information for Judges' section of the website.
3. Improvements to the EAW handbook.
4. The video walkthrough produced by the project should be made available to judges via a suitable website, ideally in all Member State languages.
5. A programme of regular exchanges to specialist EAW courts should be arranged to improve understanding of other Member States' systems.
6. A mechanism should be created whereby papers from specialist training events can be cascaded to relevant judges.

List of Annexes

- A Detail on project structure
- B Information available to Judicial Authorities
- C Country specific sources of information
- D Suggested improvements to the EAW handbook
- E Explanatory note and advantages and disadvantages of the ‘templates’
- F Issuing and Execution ‘Aide Memoire’ documents (Templates)
- G Dissemination of training information
- H Transcript of training video
- I Quantitative analysis of questionnaire replies

Annex A - Project Structure

The European Arrest Warrant Judicial Network Project (EAWJNP) began in November 2012 and finished in November 2014. The objectives of the project were to increase mutual judicial understanding and recognition, improve appreciation of the issues faced by individual Member States, increase cooperation between Member States and contribute to improvements in the implementation and application of the European Arrest Warrant (EAW). Its aims were to promote an exchange of knowledge and best practice between EAW judges across the EU and develop the EAW judicial network as a permanent forum for this exchange; to develop practical materials and clear information on the operation of the EAW to ensure the system works effectively and within the context of the European Convention on Human Rights.

The project was led by the Judicial Office in London with support from partners from other Member States - the Spanish Judicial Office, supported by the General Council for the Judiciary and the Spanish Training Academy and the Lithuanian Judicial Office, supported by the National Courts Administration of Lithuania. The Swedish Training Academy also provided input and assistance and an expert group of judges and others contributed at key stages of the project

The project began with an on-line questionnaire, set up on a dedicated web site, which members of the judiciary from across the EU who deal with the EAW regularly were invited to complete. We had in total 70 responses from 20 Member States.

The second stage of the project involved holding a series of workshops in three different Member States in order to allow participation from as many judicial authorities as possible from across the EU. The first workshop was held in London on 15 and 16 October, the second in Madrid on 12 and 13 December and the third in Vilnius on 2 and 3 April

The final plenary conference, where information gathered from the questionnaires and at the workshops was refined into the final package of outputs and recommendations, was held in London on July 22-24th 2014.

Annex B – Available Information

I. List of Websites considered useful to EAW judicial authorities

(Compiled by participants in the project)

1. www.asser.nl

- Useful to compare or find out about national Laws implementing the Framework Decision.
- To find, put 'asser institute eaw country report France' (or any other member state of the EU) in to a search engine.

2. www.ejn-crimjust.europa.eu

- At the right top corner it is possible to choose the language of the web page
 - If you click on the EAW (in blue), from that page it is possible to choose EJN contact points of every member state or the Library or the EAW Atlas
- The Library contains all relevant information on the implementation of the EAW, a report for each country, practical information, case-law of the Court of Justice and national case-law
- The Atlas allows the identification of the locally competent authority that can receive your request for mutual recognition instruments (with information about deadlines and languages) and provides a fast and efficient channel for the direct transmission of requests according to the selected measure.
- The BLUE COMPENDIUM can be used to draft the EAW. It is a tool to help the issuing judicial authority to complete the EAW form and to facilitate its translation

3. www.ejnforum.eu

- Click on the BLUE 'Practitioners' on the top bar.
- INFORMATION NATIONAL SYSTEM - contains information on national systems and offers more general information on the specifics of the legal systems used in the various countries. This page is available for the 28 EU Member States, plus the Candidate Countries and Associated Countries.
- JUDICIAL LIBRARY- In the Judicial Library, judicial office holders will find the text of all relevant legal instruments and, where applicable, the declarations and reservations made by the Member States. The library also gives an overview of the status of implementation of the various instruments.

4. www.globalcitizen.net

- EULOCS is short for EU level offence classification system and brings together the so-called approximation acquis. It provides an overview of what is known to be common in terms of criminalisation between the member states of the EU - helpful for the list of 32 offences.

5. http://opj.ces.uc.pt/pdf/EAW_Final_Report_Nov_2010.pdf

The European Arrest Warrant in Law and in Practice: A Comparative Study for the Consolidation of the European Law-Enforcement Area.

II. A Review of the EJM and EJTN websites

(Produced by a project participant)

I have reviewed the content relating to European Arrest Warrants on the EJM and the EJTN websites. Both websites have a number of links to other partner organizations, for example Eurojust, Europol, Council of Europe and others. None of those partner agencies has any information about the EAW scheme.

I begin with the EJTN:

I began my review by putting the words “European Arrest Warrant” into the search engine. Ninety nine results came up: they all related to seminars, mostly unrelated to EAW's, all of which have already taken place. The website mainly deals with training events.

The website has the legal framework documents, for example the Framework Decision of 2002, amendments, the form to be used for an EAW and a wizard for creating one.

There are a number of reports from member states dealing with their evaluation of the working of the EAW. These reports are several years old.

There is a section containing a description of how each country operates the EAW scheme. The description of the operation of the scheme in the UK is now out of date. It is of little practical use to a judge in an executing state. It is described in the menu of options within the website as "practical information". I would describe it as “procedural information”.

Finally there is a handbook, available in the language of each member state, of how to issue a warrant. The wizard is a very useful tool for preparing one. It has the headings for each section of the warrant but contains no guidance as to the details which an executing state would require.

The EJM website:

There is a considerable amount of duplication of information on this site. There are links to the same partner agencies.

Nowhere on either website is there any information which is of practical legal help to a judge in an executing state who has to make the decision whether or not to surrender a requested person to an issuing state.

The group at the EAW workshop at the plenary conference in London in July 2014 was very much of the view that effective training of judges doing this work, could in part be achieved, easily and cheaply, by using the existing website to put out information which is relevant, current, and of practical legal use to judges whose function it is to administer the EAW scheme.

Issuing an EAW is a straightforward matter. The issuing judge is guided through the process by the prescribed form and, if help is needed, by the EAW wizard, referred to above. Experience suggests that the warrants with the most detailed information encounter fewest challenges. If issuing judges are aware of the current jurisprudence of member states, which might result in a refusal to surrender a requested person, they are then better equipped to address any potential difficulty by providing the necessary information within the warrant.

We suggest that there is an option on the EJTN website within the EAW field which is headed "information for judges: current jurisprudence affecting surrender decisions in executing states". The information must be kept up to date to be of any benefit. Extradition law is a rapidly developing area of law and if the information is out of date, it is not only unhelpful, it is misleading.

Annex C - Country-Specific Sources of Information

(Provided by project participants)

1. Italy

Ministry of Justice handbook and documents

Italian Foreign Office website

Handbooks provided by the Italian Courts of Appeal and the General Prosecutor Office

2. Spain

Domestic protocol and guidelines from the Spanish Council website ('Prontuario de cooperación Judicial Internacional ') and REJUE.

3. Portugal

'Manual de Procedimentos Relativos a Emissao do Mandado de Detencao Europeu' from the Portuguese Procuradoria Geral da República.

4. Sweden

Handbooks issued by the Swedish National Courts Administration and Prosecution Authority.

5. Germany

A form provided by the Department of Judicial Assistance of the Office of Public Prosecutor.

6. Croatia

National Handbook.

Annex D - Suggestions to improve the EAW handbook

The following comments and suggestions were made by project participants during the course of the project in relation to the EAW handbook:

- A table of contents.
- More problem/solution examples and sample judicial decisions from various Member States to highlight countries where there could be specific issues.
- A chart to show the deadlines set by the various national laws and any other essential requirements of particular Member States.
- A section on national and European case law on grounds for non-execution.
- Up to date information on the practice of the EU Court on preliminary rulings and the best practice of the national courts.
- The section on 'criteria' (§3) could be integrated with advice on the instruments provided for in FD 2008/909/JHA on the enforcement of judgments involving custodial sentences or deprivation of liberty.
- More emphasis on the need for clarity of expression the danger of using "local" legal expressions which can lead to misunderstandings.
- For practitioners without a lot of experience it is a lot of text and not very well organised or accessible, so an induction pack or page could be provided.
- Provide translation into all the languages of the E.U.

Annex E – The ‘Aide Memoire’ documents

I. Explanatory Accompanying Note

Tools for the exchange of information between the executing authority and the issuing authority.

These templates are intended to facilitate the exchange of information during the process of execution of the EAW between Member states, enable feedback, avoid delays, and make communication easier by simplifying problems of translation. They should be translated ideally into all the languages used in the EU.

The use of these templates is voluntary. As their purpose is only to facilitate the process of executing an EAW, they should be regarded as a flexible tool. Only the fields related to the information required or needed are to be completed.

Template “E” is to be used by the Executing Authority and Template “I” by the Issuing Authority, in both cases when making requests or giving information.

Depending on the legislation of the Member State, these Templates can be used, not only by the authorities who have issued or are going to execute the EAW, but also by anyone else associated with that process (including judges, prosecutors, police, or contact points of an European Network) who is entitled to request, or who may be asked to provide, information necessary to facilitate the process.

Each Template has three parts:

Part 1 – The purpose of this is to identify the EAW and the Issuing and Executing Authorities concerned. This should be completed by the party seeking information. It may not always be essential to fully complete every field in this part. However, sufficient detail should be provided to clearly identify the EAW related to the request.

Part 2 – This contains the request for information and should be completed by the party seeking that information.

Part 3 – This contains the response to the information request and should be completed by the party to whom the request was addressed.

II. Advantages and Disadvantages of the ‘Aide Memoire’ documents.

Advantages

- Could resolve issues which are due to lack of detail provided on the EAW and avoid requests for additional information.
- Could help structure the decision and help prosecutors (issuing authority) understand why a warrant was discharged.

- Useful as guidance, since most executing authorities are experts, but issuers often are not and it could enhance training for the issuers.
- The issuing template could safeguard the executing authority and ensure everyone asks and answers the same questions, improving efficiency and the education of judges.
- The execution template could be helpful to clarify time limitation issues and quickly and briefly communicate a decision with the full ruling to follow. It could be also used as an 'aide memoire' to ensure all additional information is included in the original warrant.
- Useful for quick enquiries/ requests for translation and could resolve issues of communication where there is no informal method such as e-mail judge to judge.

Disadvantages

- Does not address human rights concerns, especially on aspects not covered by the Framework Decision.
- Would not prevent executing Member States wanting to know about criminal procedures in issuing Member States.
- Duplicates information on the EAW, could lead to a lot of paperwork and could complicate a process which is supposed to be simple.
- An additional form could unwittingly provide grounds for more legal arguments.



TEMPLATE¹I

For the EUROPEAN ARREST WARRANT²

(To be used only by the Issuing Authority)

1. INFORMATION PROVIDED IN ORDER TO IDENTIFY THE SPECIFIC EAW

1.1) ISSUING AUTHORITY

Official name:

Post held (title/grade):

Name of its representative:

Name of the contact point transmitting the information:

Address:

Tel. No.: (country code) (area/city code) (...)

Fax No. (country code) (area/city code) ()

E-mail

Contact details of the person to contact to make necessary practical arrangements for the surrender:

1.1.1) File reference:

1.1.2.) Information regarding the identity of the requested person:

Name:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

¹ This is not a mandatory document. Its target is to provide information regarding the specific European Arrest Warrant mentioned on it. Only the applicable fields should be completed with the information available at the official file. It is called "T" form because it comes from the *Issuing Authority*.

² Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between MemberState (OJ 18/7/ 2002 L 190/1) and Council Framework Decision of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ 27/11/ 2009 L 81/24). Hereinafter, FD 2002/584/JHA consolidated version.

Date of birth:
Place of birth:

1.2) EXECUTING AUTHORITY

Official name:
Post held (title/grade):

Name of its representative:
Name of the contact point transmitting the information:

Address:

Tel. No.: (country code) (area/city code) (...)
Fax No. (country code) (area/city code) (
E-mail
Contact details of the person to contact to make necessary practical arrangements for the surrender:

1.2.1) File reference:
.....

2) REQUESTS TO THE EXECUTING AUTHORITY

2.1) Information regarding the consent of the requested person³:

Does the requested person consent the surrender for all the offences?
 Does not the requested person consent the surrender for some offences? Which ones?

2.2) Information regarding the speciality rule⁴:

Does the requested person express renunciation of entitlement to the ‘speciality rule’?

2.3) Information regarding the duration of the detention of the requested person on the basis of the European arrest warrant⁵:

How long was the requested person deprived of liberty?
 Since when is the requested person on detention? :

2.4) The surrender is:

³ Article 13 and 14 FD 2002/584/JHA consolidated version.
⁴ Article 13.1 and 27.2 FD 2002/584/JHA consolidated version.
⁵ Article 26.2 FD 2002/584/JHA consolidated version

Temporary⁶, for how long?:

Definitive?

2.5) HANDING OVER OF PROPERTY⁷:

Regarding properties:

has been seized or handed over property as evidence?

has been seized or handed over property acquired by the requested person as a result of the offence?

if the property is needed in connection with pending criminal proceedings and due to this the Executing State has temporarily retained the property, until when?

2.6) REQUEST OF TEMPORARY TRANSFER⁸:

The executing judicial authority has postponed the surrender of the requested person, requesting the issuing authority the temporary transfer:

during this period:....

according with these conditions:

2.7) REQUEST OF HEARING THE PERSON PENDING THE DECISION⁹:

Issuing authority requests to hear the requested person in the Executing State under these conditions:....

2.8) OTHER REQUESTS:

2.8.1) Information regarding ground for the delay for surrender the requested person¹⁰: ...

2.8.2) In case of multiple European arrest warrants¹¹, Eurojust advice has been sought?¹²

2.8.3) Regarding speciality rule, executing authority is asked for consent for the prosecution, sentencing or detention with a view to the carrying out of a custodial sentence or detention order

⁶ Article 18.1.b) FD 2002/584/JHA consolidated version

⁷ Article 29 FD 2002/584/JHA consolidated version

⁸ Article 18 and 24 FD 2002/584/JHA consolidated version

⁹ Article 18 and 19 FD 2002/584/JHA consolidated version

¹⁰ Article 17.4 FD 2002/584/JHA consolidated version

¹¹ Article 16.1 FD 2002/584/JHA consolidated version

¹² Article 16.2 FD 2002/584/JHA consolidated version

for an offence committed prior to his or her surrender, other than that for which he or she was surrendered¹³

2.8.4) Regarding the requested person already surrendered by the Executing State, its authority is asked for consent in surrender the person to a different State by the Issuing State¹⁴

2.8.5) in case of surrender under the condition of returning the requested person to Executing State, any deadline?:

2.9) IF THE SURRENDER IS DENIED¹⁵:

2.9.1) Is it possible to apply Framework Decision 2008/909¹⁶?

2.9.2) Is it possible to apply Framework Decision 2009/829¹⁷?

2.9.3) Information has been transmitted to Eurojust under article 13 Decision 2009/426¹⁸

3) GIVING INFORMATION TO THE EXECUTING AUTHORITY

3.1) The European arrest warrant is now sent translated into this language¹⁹:
.....

3.2) Information regarding²⁰:

- identity and nationality of the requested person:
- evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect:.....
- the nature and legal classification of the offence:
- a description of the circumstances in which the offence was committed, including the time, place:
- degree of participation in the offence by the requested person:.....
- the penalty imposed, in case of final judgment:.....
- prescribed scale of penalties for the offence under the law of the issuing Member State:.....
- copy of the judgment:

¹³ Article 27 FD 2002/584/JHA consolidated version

¹⁴ Article 28 FD 2002/584/JHA consolidated version

¹⁵ Article 3 and 4 FD 2002/584/JHA consolidated version

¹⁶ Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 5/12/2008 L 327/27)

¹⁷ Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (OJ 11/11/2009 L 294/20).

¹⁸ Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (OJ 4/6/2009 L 138/14)

¹⁹ Article 8.2 FD 2002/584/JHA consolidated version

²⁰ Article 8.1 and 4 bis.2 and 15.3 FD 2002/584/JHA consolidated version

any additional useful information:.....

3.3) Sending of documents in order to solve the difficulties concerning the transmission or the authenticity of any document needed for the execution of the European arrest warrant²¹ :

3.4) Information regarding the request to an authority of another State or international organisation for waiving the privilege or immunity of the requested person²²:

3.5) if the offence on the basis of which the European arrest warrant has been issued is punishable by custodial life sentence or life-time detention order²³, this guarantee is given:

- the review of the penalty or measure imposed on request
- the review of the penalty or measure imposed at the latest after 20 years
- the application of measures of clemency to which the person is entitled to apply aiming at a non-execution of such penalty or measure:

3.6) regarding nationals or residents of the Executing State²⁴, this guarantee is given:

- the person, after being heard, is returned to the executing Member State in order to serve there the custodial sentence or detention order passed against him in the issuing Member State
- another condition:

Signature of the issuing judicial authority, its representative, contact point or both:

Date:

.....

²¹ Article 10.5 FD 2002/584/JHA consolidated version
²² Article 20.2 FD 2002/584/JHA consolidated version
²³ Article 5.2) FD 2002/584/JHA consolidated version
²⁴ Article 5.3) FD 2002/584/JHA consolidated version



(To be used only by the Executing Authority)

1. INFORMATION PROVIDED IN ORDER TO IDENTIFY THE SPECIFIC EAW

1.2) ISSUING AUTHORITY

Official name:

Post held (title/grade):

Name of its representative:

Name of the contact point transmitting the information:

Address:

Tel. No.: (country code) (area/city code) (...)

Fax No. (country code) (area/city code) ()

E-mail

Contact details of the person to contact to make necessary practical arrangements for the surrender:

1.1.1) File reference:

1.1.2) Information regarding the identity of the requested person:

Name:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

²⁵This is not a mandatory document. Its target is to provide information regarding the specific European Arrest Warrant mentioned on it. Only the applicable fields should be completed with the information available at the official file. It is called "E" form because it comes from the *Executing Authority*.

²⁶Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member State (OJ 18/7/ 2002 L 190/1) and Council Framework Decision of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ 27/11/ 2009 L 81/24). Hereinafter, FD 2002/584/JHA consolidated version.

Date of birth:
Place of birth:

1.2) EXECUTING AUTHORITY

Official name:
Post held (title/grade):

Name of its representative:
Name of the contact point transmitting the information:

Address:

Tel. No.: (country code) (area/city code) (...)
Fax No. (country code) (area/city code) (
E-mail
Contact details of the person to contact to make necessary practical arrangements for the surrender:

1.2.1) File reference:
.....

2) REQUESTS TO THE ISSUING AUTHORITY

2.1) It is necessary to send information²⁷ regarding:

- identity and nationality of the requested person:
- evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect:.....
- the nature and legal classification of the offence:
- a description of the circumstances in which the offence was committed, including the time, place:
- degree of participation in the offence by the requested person:.....
- the penalty imposed, in case of final judgment:.....
- prescribed scale of penalties for the offence under the law of the issuing Member State:.....
- copy of the judgment:
- additional useful information

2.2) It is necessary to translate the certificate to this language²⁸:

2.3) It is necessary to solve the difficulties concerning the transmission or the authenticity of any document needed for the execution of the European arrest warrant²⁹, so, you are requested to:

²⁷ Article 8.1 and 4 bis.2 FD 2002/584/JHA consolidated version
²⁸ Article 8.2 FD 2002/584/JHA consolidated version
²⁹ Article 10.5 FD 2002/584/JHA consolidated version

2.4) GUARANTEES

2.4.1) The offence on the basis of which the European arrest warrant has been issued is punishable by custodial life sentence or life-time detention order³⁰ hence this guarantee is required:

- the review of the penalty or measure imposed on request
- the review of the penalty or measure imposed at the latest after 20 years
- the application of measures of clemency to which the person is entitled to apply aiming at a non-execution of such penalty or measure:

2.4.2) Regarding nationals or residents in the Executing State³¹, this guarantee is required:

- the person, after being heard, is returned to the executing Member State in order to serve there the custodial sentence or detention order passed against him in the issuing Member State
- different conditions:

2.5) Amendment should be done before this deadline:

.....

3) GIVING INFORMATION TO THE ISSUING AUTHORITY

3.1) The surrender has been decided on these bases:

- Due to all the offences described in the EAW
- Only for some offences, hence, the EAW has been denied on these other offences:

3.2) Consent of the requested person³²:

- Yes, the requested person consented for all the offences
- The requested person consented for some offences but not for these ones:
- No, the requested person did not consent

3.3) Information regarding the speciality rule³³:

- Yes, the requested person express renunciation of entitlement to the 'speciality rule'
- No, the requested person does not express renunciation of entitlement to the 'speciality rule'

³⁰ Article 5.2) FD 2002/584/JHA consolidated version

³¹ Article 5.3) FD 2002/584/JHA consolidated version

³² Article 13 and 14 FD 2002/584/JHA consolidated version.

³³ Article 13.1 and 27.2 FD 2002/584/JHA consolidated version.

3.4) Information regarding the duration of the detention of the requested person on the basis of the European arrest warrant³⁴:

- The requested person has not been deprived of liberty
- The requested person has been deprived of liberty during this period:
- The requested person is deprived of liberty since this date:

3.5) other relevant information:

3.6) The surrender is:

- Definitive
- Temporary³⁵, during this period:

3.7) Surrender of the requested person has been postponed³⁶:

- in order to be prosecuted in the executing Member State
- in order to serve, in its territory, a sentence passed for an act other than that referred to in the European arrest warrant

3.8) Surrender denied³⁷:

- amnesty
- ne bis in idem (the requested person has been finally judged by a Member State in respect of the same acts provided that, where there has been sentence, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing Member State)
- the age of the requested person
- the act on which the European arrest warrant is based does not constitute an offence under the law of the executing Member State:
- the person who is the subject of the European arrest warrant is being prosecuted in the executing Member State for the same act as that on which the European arrest warrant is based
- criminal prosecution of the requested person is statute-barred according to the law of the executing Member State
- punishment of the requested person is statute-barred according to the law of the executing Member State
- the arrest warrant has been issued for the purposes of execution of a custodial sentence or detention order, where the requested person is staying in, or is a national or a resident of the executing Member State and that State undertakes to execute the sentence or detention order in accordance with its domestic law
- the arrest warrant relates to offences which are regarded by the law of the executing Member State as having been committed in whole or in part in the territory of the executing Member State or in a place treated as such
- the arrest warrant relates to offences which are regarded by the law of the executing Member State as having been committed have been committed outside the territory of the issuing Member

³⁴ Article 26.2 FD 2002/584/JHA consolidated version

³⁵ Article 18.1.b) FD 2002/584/JHA consolidated version

³⁶ Article 24 FD 2002/584/JHA consolidated version

³⁷ Article 3 and 4 FD 2002/584/JHA consolidated version

State and the law of the executing Member State does not allow prosecution for the same offences when committed outside its territory

absentia

another ground, not namely provided by the Framework Decision (passage of time, fundamental rights):

3.8.1) It is possible to apply Framework Decision 2008/909³⁸:

.....

3.8.2) It is possible to apply Framework Decision 2009/829³⁹:

.....

3.9) the authority which has received the European arrest warrant is not competent to act upon it, in consequence, it has forwarded the European arrest warrant to the competent authority in its Member State⁴⁰:.....

3.10) the European arrest warrant can not be executed within 10 days since the consent of the requested person, due to these reasons⁴¹:

3.11) the European arrest warrant can not be executed within 60 days since the arrest of the requested person, due to these reasons⁴²:

3.12) as a consequence of 3.10 o 3.11, time limits are extended no further than 30 days⁴³, deadline: ...

3.13) Decision taken in case of multiple European arrest warrants⁴⁴:.....

3.14) Eurojust advice has been sought in case 3.13⁴⁵

3.15) Decision taken in case of conflict between the European arrest warrant and the extradition presented by a Third country⁴⁶:

3.16) power to waive the privilege or immunity lies with an authority of another State or international organisation, it shall be for the issuing judicial authority to request it to exercise that power⁴⁷:.....

3.17) the requested person was previously surrendered by a Third State and speciality rule is applicable. For this reason, Executing State has requested the Third country consent for this surrender to the Issuing State⁴⁸

3.18) the surrender has been postponed due to serious humanitarian reasons⁴⁹, new date for the surrender:.....

³⁸Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 5/12/2008 L 327/27)

³⁹Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (OJ 11/11/2009 L 294/20).

⁴⁰ Article 10.6 FD 2002/584/JHA consolidated version

⁴¹ Article 17.2 and 17.4 FD 2002/584/JHA consolidated version

⁴² Article 17.2 and 17.4 FD 2002/584/JHA consolidated version

⁴³ Article 17.4 FD 2002/584/JHA consolidated version

⁴⁴ Article 16.1 FD 2002/584/JHA consolidated version

⁴⁵ Article 16.2 FD 2002/584/JHA consolidated version

⁴⁶ Article 16.3 FD 2002/584/JHA consolidated version

⁴⁷ Article 20.2 FD 2002/584/JHA consolidated version

⁴⁸ Article 21 FD 2002/584/JHA consolidated version

3.19) Regarding speciality rule, decision taken on the request of consent by the Executing country for prosecution, sentencing or detention of the requested person with a view to the carrying out of a custodial sentence or detention in the Issuing State order for an offence committed prior to his or her surrender⁵⁰:

- Yes, Executing authority so consents:
- Yes, Executing authority so consents but only for these offences:
- No, Executing authority does not consent

3.20) Regarding the requested person already surrendered by the Executing State, decision taken on consent in surrender the person to a different State by the Issuing State⁵¹:

- Yes, Executing authority consents the surrender to this State: ...
- No, Executing authority does not consent: ...

3.21) HANDING OVER OF PROPERTY⁵²:

3.21.1) This property is handed over as evidence:

3.21.2) This property is handed over as acquired by the requested person as a result of the offence

3.21.3) Concerning 3.21.1 or 3.21.2:

- the property is needed in connection with pending criminal proceedings and due to this the Executing State has temporarily retained the property, until this date:
- the property is handed over under the condition of that being returned before this date:
- ..
- Due to rights which the executing Member State or third parties have acquired in the property the issuing Member State shall return the property without charge to the executing Member State as soon as the criminal proceedings have been terminated

3.22) ADDITIONAL INFORMATION:

.....

Signature of the executing judicial authority, its representative, contact point or both:

Date:

.....

⁴⁹ Article 23.4 FD 2002/584/JHA consolidated version

⁵⁰ Article 27 FD 2002/584/JHA consolidated version

⁵¹ Article 28 FD 2002/584/JHA consolidated version

⁵² Article 29 FD 2002/584/JHA consolidated version

Annex G - Suggestions for the sharing and dissemination of the contents, outcomes and findings of European Arrest Warrant related courses

(Produced by a project participant)

1. Introduction
2. Designing training activities
3. Outcome and findings' dissemination
4. Maintenance

1. Introduction

One of the conclusions of the plenary conference of the European Arrest Warrant Judicial Network Project (Just/2011-2012/JPen/AG/2986) was the convenience of having a clear, easy, quick and structured way to find all the information regarding courses, seminars, projects and workshops which are held in relation to the European Arrest Warrant (EAW). Of particular note were the benefits such a channel of information would provide regarding workshops and face to face training.

All Judges and Prosecutors in each European Union Member State need to be aware of the available courses, as well as having access to the findings and outcomes of them. To achieve such a goal, National and European websites from Judicial Academies, and others, would need to receive the relevant information about such courses and consequently get it properly broadcast and published.

This would enable the learning points to be taken back to Member States to encourage a common approach of practice, particularly regarding sensitive and problematic fields, e.g. in absentia trials and human rights issues.

Accordingly, a systematic and consistent method of arranging and presenting the contents, structure, findings and outcomes of courses, seminars and training sessions would be useful, in order to facilitate consultations and enquiries from Judges and prosecutors.

2. Designing training activities

Generally, courses and seminars (not only EAW related ones but all those related to European instruments and supranational regulations) have a number of common objectives which they expect to be achieved by the end of training activities, such as:

- a) Improving the knowledge of participants about the supranational regulatory legal framework.
- b) Getting the participants acquainted with the comparative Law framework.
- c) Providing a current panoramic on constitutional standards.
- d) Providing an updated comparison on best practices.
- e) Facilitating the systematic consultation of the findings obtained in different approaches, not necessarily normative ones but also based on studies made by national agencies and institutions, and different experiences and programmes operating throughout the European Union.
- f) Identifying possible ways of adaptation in general, and in particular for national legislations, to receive international best practices, and learn from international experience.

g) Carrying out a systematic study of jurisprudence.

h) Formulating concrete proposals on how protocols can be followed, the development of legislative lines, practical tips and key troubleshooting.

Reflecting on the idea of training goals and aims, we found that face to face training, based on case law and case study analysis, is one of the most important ways to increase participants' knowledge and involvement in the EAW field.

Accordingly, it was agreed that it was of the utmost importance to expand the outcomes and findings of every course, thus making it feasible for all interested Judges and Prosecutors who were unable to attend a particular course or seminar, to benefit from the teaching and learning derived from it.

Although we focussed on the dissemination of outcomes and findings, we also bore in mind that appropriate dissemination will require prior consideration when designing the course or project. This will involve several aspects, covering the gathering and presentation of information, in order to clarify the course's contents later on. For instance:

- Preparation and completion of a survey on the familiarity, awareness and implication of the Judiciary from different Member States in relation to the issues and problems to be covered by the course.

- Combination of the theoretical approach (with lectures and presentations from experts), with workshops and plenary sessions to share the findings of each group and have a common reflection on the situation, problems and solutions.

- Preparation of a summary of each meeting, with a structured presentation of its contents, debates and findings.

- The production of a final document collecting the findings of the project as well as guidelines, problematic areas, best practice and a troubleshooting report.

- Foreseeing the insertion, and therefore dissemination, of both the final document and summaries on the European Judicial Training Network website and the websites of the Judicial Academies from the partner countries.

At the end of the seminar, a report should be produced on the development of the seminar, its findings, outcomes, level of participation, goals met etc; the course director should assist in the implementation of the publication stage by forwarding the complete project fiche and annexed documents, if any, to the EJTN and the National Judicial Academies.

3. Dissemination of Course Outcomes and Findings

Broadly speaking, the first step of an adequate dissemination process should be appropriate tailoring of the activities to be performed in the course and the setting up of mechanisms to gather the relevant information about the course. Examples would be :

- Preparation and completion of a survey on the familiarity, awareness and implication of the Judiciary from different Member States in relation to the EAW and related issues (such a survey should be distributed and completed beforehand by the course participants)

- Analysis of the results of the previous survey.

- Report on the development of each workshop.
- Satisfaction surveys and evaluation forms completed by participants.
- Reports from lecturers, workshop coordinator and director.
- Specific report on the achievement of goals
- Final report on the complete project.

It is not part of this proposal to suggest the content of courses, nor the mechanisms to be followed when drafting them; we therefore cover only the dissemination of the course' conclusions and findings.

In order to achieve that, there are several areas to be covered:

a) Index of activities.

Following the scheme proposed for the prospectus, an index of all the EAW courses held, should be prepared on an annual basis.

By the end of the first term of every year, a notice summarising the courses and their contents should be prepared, so that we can easily find the relevant information we need to gain an accurate overview of the course's objectives and discussions, for instance:

EAWC1.15

Course 1/2015

European Arrest Warrant. Proportionality, the main issue

Organised by EJTN

Madrid, 20, 23 January 2014

Number of participants; 37

Nationalities: Bulgaria, Greece, France, Germany, Latvia, Portugal, Spain, United Kingdom

Scheme of the course: 4 lectures

9 workshop sessions

4 plenary sessions

1 closing session

Lectures: *titles*

Workshop debate topics: *describe*

Project fiche: *available/not available*

We may suggest the following nomenclature:

EAWC1.15

EAW (European arrest warrant) C (course) 1.15 (number 1, 2015)

EAWS (seminar), EAWME (meeting of experts)

b) Course Description. This is probably the most important part of the whole process. The description should contain, at least.

1. Overview of the course structure and goals.

1.1 Technical aspects:

Title and dates. Identification number.

Venue and dates.

Director, coordinator, reporter, lecturers.

Number and nationality of participants.

1.2 Objective of the course.

Issues tackled

EAW Framework Decision analysis (Articles).

National Legislations analysed

Other instruments studied.

1.3 Activities

2. The whole text of the lectures, as a consultation document.

3. Overview on the workshop sessions

3.1 Problems or situations specifically set up for debate

3.2 Discussion lines

4. Conclusions

c) Database. Such a tool is crucial in order to facilitate consultation and easy and quick access to different areas of knowledge.

The database structure should be searchable both by subject and by article of the EAW Framework Decision, so the contents should be accessible by either method. This should bring up a detailed overview of the items covered by courses and seminars and give, by clicking on each of them, the relevant information. For instance:

In absentia trials

Concept of absentia (3)

Art. 4 EAW Framework Decision (1)

Fundamental rights concerns (5)

National legislations (3)

...

The number in brackets denotes the number of entries, and by clicking this, a new series of option appears.

The database will need to be designed, implemented and developed by a team made up of lawyers and IT staff, and since it will expand as the number of training courses expands, it will need to be regularly updated (quarterly for instance). The database should develop along with the number of courses and seminars held.

By clicking 'National legislations' you should be able to retrieve the legislation in a particular country on, for instance, In absentia trials, and access the relevant information, properly organised and presented.

d) Broadcasting. Insertion on the EJM website and referenced on those of the National Academies and Institutions.

4. Maintenance

The proposed activities will require collaboration from a number of people and the coordination of several areas and aspects, i.e., production of the prospectus, co-ordination of the team with the course managers to discuss methods of dissemination of the contents, liaison with the EJM and National websites.

Naturally, establishing such a system, refreshing and updating it, may generate some costs, mainly related to the fees of the judiciary and IT staff involved.

We suggest that Judges who took part in this project may be best placed to assume these commitments.

Annex H - Transcript of Training Video

The European Arrest Warrant Judicial Network Project, which was part funded by the European Commission, was a consultation of executing and issuing judges from all around Europe.

They put together, over the course of two years, a list of common problems that the judges had, and the point of this video is to try and deal with these problems so that when an issuing judge is writing a European Arrest Warrant he includes all the information that the executing judge will want to read.

And this, of course, not only will avoid delay, but will give the issuing judge a better chance of success - of getting the requested person sent back to the issuing judicial authority.

To make sure warrants have the best chance of simple and speedy execution, the executing judge will need sufficient detail on the facts and circumstance of the offence to identify the offence with which the requested person is charged.

In both accusation and conviction cases, these are the sort of things that should be in the warrant and that are sometimes lacking.

The date and location of the offence, for each offence.

The offence and the particular role the requested person played in it, so you'll need to include the circumstances of the specific offence, what the requested person actually did, not just general information on that offence.

Whether an offence was an offence in a particular Member State on the date of the offence.

The reason for any delay in issuing the warrant and whether a domestic warrant has been issued. You could include a chronology to help the executing authority understand the reasons for any delay between the offence, any court proceedings and the issuing of the warrant. If the reason for the delay is that knowledge of the requested person's current location has only been acquired recently, then say that on the warrant.

The maximum penalties for each offence and whether the sentence may be served in the executing Member State.

Any applicable domestic time bars of statutes of limitation.

Information about life imprisonment - is it reviewed after a set period of time - and any human rights considerations, for instance Article 8 of the ECHR.

Information about the bail situation - was the requested person on bail, what were the bail conditions and did he or she breach them? If there are written bail conditions, the executing authority might need to see them.

That you've considered proportionality, dual criminality, double jeopardy and properly completed the framework list section of the warrant.

In conviction cases, the executing authority will also need information about the circumstances of an in absentia trial, for instance whether the requested person was represented by someone he or

she instructed, or had a technical representative, appointed by the court. Was the requested person aware of the date of the hearing and what efforts were made to locate him or her.

Whether there are any guarantees of re-trial in absentia cases. If the original sentence was suspended, why and when was it activated and how much time remains to be served.

In each Member State, the executing judge will have to follow the procedures laid down in their own legislation, for instance, the Extradition Act 2003 in England and Wales imposes a different set of standards than are found in the Framework Decision. There may be considerations to bear in mind which are particular to a specific Member State, for instance in England and Wales almost every case involves arguments on the right to family life, Article 8, so proportionality is an important consideration then.

In conclusion, above all, please look at it, look at the issuing of the warrant, from the perspective of the executing judicial authority. If you do that, you can't go wrong.

Annex I – Quantitative Analysis of Questionnaire Results

Background Questions		Both	Executing	Issuing		Total
Please indicate your judicial involvement with the European Arrest Warrant by selecting one of the following		29	20	25		74
		Frequently	Occasionally	Very Rarely		Total
How Often do you deal with cases involving the EAW?		38	29	7		74
		Less than a year	1-3 years	More than 3 years		Total
How Long have you been dealing?		10	9	55		74
Sources of information		Regularly	Occasionally	Rarely	Never	Total
Do you use the European Commissions Handbook?		13	19	16	26	74
		Yes	No			Total
Are you aware of the assistance available on the EAW through Eurojust?		64	10			74
Have you ever used Eurojust when dealing with EAW?		24	49			73
Are you aware of the assistance available in dealing with EAW cases through the European Judicial Network?		58	16			74
Have you used the assistance available via EAJ in dealing with EAW cases?		26	48			74
Questions for ISSUING authorities		Regularly	Occasionally	Rarely	Never	Total
How often have you been asked to provide additional information by an executing jurisdiction which you did not consider should be necessary?		3	6	19	24	52
How often have your request for surrender been denied?		0	3	18	29	50
How often have you used the surrender of evidence provision in Article 29?		0	1	16	33	50
Issues for EXECUTING authorities						Total
How frequently have the following issues arising within your OWN jurisdiction caused you difficulties in cases with which you have dealt						
The right to interpretation and translation		0	11	13	28	52
the right to information about rights		0	2	10	40	52
The right to pre-trial legal advice and at trial legal aid		1	6	10	35	52
The right of a detainee to communicate with family members employers and consular authorities		0	3	14	35	52
Protection for vulnerable suspects		0	4	5	43	52
Meaning of Judicial authority		1	8	9	34	52
Efficacy of the guarantee of right to retrial in absentia conviction cases		2	14	9	27	52
How frequently have the following issues arising within the issuing FOREIGN jurisdiction caused you difficulties in cases with which you have dealt						
The right to interpretation and translation		0	6	17	25	48
the right to information about rights		0	4	8	37	49
The right to pre-trial legal advice and at trial legal aid		0	1	9	38	48
The right of a detainee to communicate with family members employers and consular authorities		1	6	7	34	48
Protection for vulnerable suspects		1	3	5	38	47
Meaning of Judicial authority		0	7	15	25	47
Efficacy of the guarantee of right to retrial in absentia conviction cases		1	11	12	24	48
		Frequently	Occasionally	Never		Total
Has the form of content of EAW you are involved in executing been a problem?		4	20	29		53
		Yes	No			Total
Have you encountered instances where it appeared that the EAW was being used as an investigative tool?		12	40			52
		Regularly	Occasionally	Rarely	Never	Total
Often have you found it necessary to ask for supplementary information?		5	11	26	9	51
How often have you been unable to execute a warrant due to lack of the necessary information being provided?		1	3	20	28	52
		Always	Usually	Occasionally	Rarely	Never
Often have you been able to complete the EAW execution procedure within the required time?		20	13	5	5	5
How often have you used the commitment to send provision?		10	18	0	22	50
Questions for BOTH issuing and Executing authorities						Total
How often are Human rights issues raised?		10	9	33	16	68
		Yes	No			Total
Have you encountered any EAW cases involving mistaken identity?		12	56			68
Problems regarding the transmission of EAWs through the Schengen Information system?		3	64			67
Country		Austria	Belgium	Bulgaria	Croatia	Cyprus
		1	1	4	8	1
		Estonia	Germany	Holland	Hungary	Ireland
		1	3	2	3	1
		Italy	Poland	Portugal	Romania	Slovakia
		8	4	6	3	2
		Slovenia	Spain	Sweden	Lithuania	UK
		2	6	5	5	8