



An Roinn Dlí agus Cirt **Department of Justice**

Report

**on the operation of the European Arrest Warrant Act
2003 (as amended) for the year 2023 made to the
Houses of the Oireachtas by the Central Authority in
the person of the Minister for Justice pursuant to
section 6(6) of the European Arrest Warrant Act 2003.**

The European Arrest Warrant Act 2003

The *European Arrest Warrant Act 2003* came into operation on 1 January 2004¹. 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 arrest warrants received and issued between the State and other EU Member States, the United Kingdom, Iceland and Norway.

Following Brexit, extradition with the United Kingdom is no longer processed under the European Arrest Warrant system and has instead been replaced by a similar extradition arrangement under the EU-UK Trade and Cooperation Agreement (the “TCA”). However, given the level of interaction with the UK in relation to extradition, the Department of Justice will continue to include UK statistics in the EAW Annual Report².

The Central Authority

Section 6(1) of the 2003 Act provides that the Minister for Justice will be the Central Authority for the purposes of that Act.

¹ The Act has since been amended by a number of other Acts and statutory instruments. A consolidated version of the Act can be accessed on the Law Reform Commission website:

<https://revisedacts.lawreform.ie/eli/2003/act/45/front/revised/en/html> .

² The legal framework between the UK and Ireland is discussed in greater detail at page 5 of the Report.

The functions of the Central Authority are administered through the Criminal Justice, Service Delivery Division of the Department of Justice. The functions are:

- (a) to receive 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 an arrest warrant for execution,
- (d) to liaise with other relevant State authorities (the Office of the Attorney General, the Chief State Solicitor's Office, the Office of the Director of Public Prosecutions and An Garda Síochána) in relation to arrest warrants received under the European Arrest Warrant Act 2003,
- (e) to communicate with the issuing judicial authorities on matters relevant to the processing of arrest warrants,
- (f) to transmit to other Member States 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 an arrest warrant under the Act and following administrative verification, the Central Authority forwards the warrant to the Chief State Solicitor's Office. That Office makes an application to the High Court to have the warrant endorsed for execution. The Attorney General's Office also provides legal advice as to any possible deficiencies in the warrant.

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 An Garda Síochána to be executed. The subject of the warrant must be brought before the High Court as soon as possible after arrest.

Schengen Information System (SIS II)

Ireland commenced participation in the Schengen Information System (SIS II) on 15 March 2021. The new national SIRENE Bureau (Supplementary Information Request at the National Entries) within An Garda Síochána has responsibility for the daily management of the SIS system.

For an arrest to occur on foot of a SIS alert, there is no requirement to have a prior endorsed warrant. A member of An Garda Síochána may arrest any person without a warrant that the member believes, on reasonable grounds, to be a person named in an alert.

SIRENE Ireland will inform the Central Authority of the arrest and the Central Authority will await transmission of the original arrest warrant from the issuing judicial authority that created the alert. Once the original arrest warrant is received, it will be produced to the High Court.

The High Court shall remand the person in custody or, at its discretion, on bail for a period not exceeding 14 days for production to the High Court of the arrest warrant on foot of which the alert was entered.

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.

Where a person is brought before the High Court, they may consent to being surrendered. 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, Eurojust³, of the reasons. In general, the reasons for delay tend to relate to legal proceedings that are still ongoing; this may include where the person whose surrender is sought has exercised their right to bring a case under Article 40.4.2 of the Constitution, submit an appeal to the Court of Appeal, or appeal a point of law to the Supreme Court.

BREXIT

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

Section 2 of the European Arrest Warrant (Application to Third Countries and Amendment) and Extradition (Amendment) Act, 2012, enables the application of provisions of the European Arrest Warrant Act, 2003 to States other than EU Member States. This section was already used to apply the European Arrest Warrant Act, 2003 to Iceland and Norway by the European Arrest Warrant (Application to Third Countries) (Iceland and Norway) Order 2020. Likewise, the European Arrest Warrant (Application to Third Countries) (United Kingdom) Order, 2020 was signed by the Minister for Foreign Affairs, on 31 December 2020. This Order applies the provisions of the European Arrest Warrant Act, 2003 to the United Kingdom of Great Britain and Northern Ireland in light of the coming into operation of the EU-UK Trade and Cooperation Agreement. The European Union (European Arrest Warrant Act 2003) (Amendment) Regulations 2021 were subsequently made in order to amend provisions of the

³ Eurojust is a European Union agency for Criminal Justice Cooperation. The agency works with national authorities to combat a wide range of serious and complex cross-border crimes involving two or more countries. Such crimes include terrorism, cybercrime, and human trafficking.

European Arrest Warrant Act 2003 to take the UK into account. A key change to the Act made by the Regulations is that the term 'European arrest warrant' has been replaced with 'relevant arrest warrant'.

As all Annual Reports on the operation of the EAW to date have shown, the State has considerable interaction with the UK in relation to extradition each year. In the context of combating crime and terrorism, the necessity to maintain a functioning system of extradition between the two states is a key priority. In this regard and for the purposes of this Annual Report, the Department of Justice will continue to provide statistics on UK extradition conducted under the EU-UK Trade and Cooperation Agreement.

Issuance of European arrest warrants/Trade and Cooperation Agreement (TCA) 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 or TCA 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 or TCA 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 United Kingdom, Iceland or Norway.

The Director of Public Prosecutions, to whom the European arrest warrant or TCA warrant issues to, forwards the warrant to the Central Authority, which transmits it to the relevant Member State, the United Kingdom, Iceland, or Norway.

Operational Trends

Since 2021, there has been a noticeable downward movement in the number of EAWs/TCA warrants received from other Member States and this was also the case in 2023; however it remains to be seen if the figure will continue to decrease or, indeed, stabilise. The number of EAW/TCAs transmitted to other Member States in 2023 increased slightly compared to 2022. This is the second

year that an increase has been observed; however, the overall increase has not been significant.

The number of individuals surrendered from Ireland to other Member States in 2023 was almost identical to the preceding couple of years. In contrast, the number of individuals surrendered to the State in 2023 differed greatly from the previous year – this would not be unusual. Previous years have shown that there is a reasonable degree of fluctuation in the number of individuals surrendered to Ireland each year from other Member States (86 surrenders to Ireland in 2022, 46 surrenders made to Ireland in 2023). A likely reason for this is because the EAW/TCA mechanism is wholly reliant on the court process, where multiple factors determine the time it takes for an individual to be surrendered to another country. For instance, an individual may be serving a domestic prison sentence in the country they are to be surrendered from, thus delaying their surrender.

Overview

Composition of the Report

Part 1 records developments in 2023 in relation to European arrest warrants and TCA warrants received by the Central Authority by reference to the various stages in the process.

Part 2 records developments in 2023 in relation to European arrest warrants and TCA 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/TCA warrants received by Ireland in 2023 by country

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

Appendix 3 - Surrender Orders executed by Ireland in 2023 by country

Appendix 4 - Number of European arrest warrants/TCA warrants sent by Ireland in 2023 by country

Appendix 5 - Number of surrenders to Ireland by year

Appendix 6 - Number of surrenders to Ireland in 2023 by country

Part 1

Developments in 2023 in relation to European Arrest Warrants and TCA Warrants received by Ireland

Position in 2023 concerning European arrest warrants received in previous years

The number of European arrest warrants on hand at 1 January 2023 was 542.

The number of European arrest warrants/Trade and Cooperation Agreement warrants received in 2023

A total of 91 European arrest warrants and 44 TCA warrants were received by the Central Authority in 2022.

Types of offences

European arrest warrants/TCA warrants received during 2023 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, participation in a criminal organisation, fraud and human trafficking.

Number of persons arrested pursuant to a European arrest warrant or Trade and Cooperation Agreement warrant

95 arrests were made in this jurisdiction in 2023 pursuant to European arrest warrants/TCA warrants. 91 of those arrests related to warrants received in 2023.

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. The High Court made 27 such notifications in 2023.

Number of received European arrest warrants/Trade and Cooperation Agreement warrants completed in 2023

A total of 226 European arrest warrants/TCA warrants were completed in 2023. 45 of these were received in 2023, and the remaining 181 were received during the period 2004 to 2022 (inclusive).

Number of complaints under Article 40.4.2 of the Constitution in 2023

There were no complaints made under Article 40.4.2 of the Irish Constitution in 2023.

Number of Cases appealed to the Court of Appeal in 2023

There was 1 appeal to the Court of Appeal in 2023. The appeal relates to sections 11 and 38 of the European Arrest Warrant Act, 2003, as amended.

Number of Cases appealed to the Supreme Court in 2023

There was 1 appeal to the Supreme Court in 2023. The appeal is still before the Supreme Court.

Number of European arrest warrants/Trade and Cooperation Agreement warrants on hand at 31 December 2023

There were 451 European Arrest Warrant/TCA warrant cases on hand at 31 December 2023. Of these, 90 cases were received in 2023 while 361 cases were received between 2004 and 2022 (inclusive).

Surrender Orders executed by the State since 1 January 2023

There were 122 orders for surrender involving 110 individuals executed by the State in 2023 (an issuing State may, on occasion, transmit a number of European arrest warrants or TCA warrants in respect of one individual).

Total number of orders for surrender executed between 2004 and 31 December 2023

1912 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 2023.

Part 2

Developments in 2023 in relation to European Arrest Warrants and TCA 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/TCA warrants is to transmit the warrant to the executing Member State or the United Kingdom. The Central Authority also acts as a conduit where the executing State requests further information or documents.

Position in 2023 concerning European arrest warrants transmitted between 2004 and 2022

A total of 230 European arrest warrants transmitted by the Central Authority to other Member States between 2004 and 2022 were still ongoing on 1 January 2023.

Number of European arrests warrants/Trade and Cooperation Agreement warrants transmitted by the Central Authority in 2023

A total of 41 European arrest warrants and 57 TCA warrants were transmitted by the Central Authority to other Member States and the United Kingdom in 2023.

Types of offences

The types of offences cited in the European arrest warrants/TCA warrants transmitted by the Central Authority in 2023 included murder, sexual offences, drugs offences, human trafficking, abduction, assault, robbery and fraud.

Number of European arrest warrants/Trade and Cooperation Agreement warrant transmitted and still ongoing at 31 December 2023

252 European arrest warrants/TCA warrants transmitted by the State were still ongoing on 31 December 2023. 53 of these warrants were transmitted during 2023 while the remaining 199 had been transmitted between 2004 and 2022.

Number surrendered to the State in 2023

There were 46 surrender orders made in respect of 45 individuals who were the subject of Irish issued warrants and surrendered to the State in 2023. Of these, 14 related to European arrest warrants/TCA warrants transmitted in 2023 while 32 related to warrants transmitted between 2004 and 2022 (inclusive).

Number of surrenders to the State since 1 January 2004

853 surrenders have been made to the State since the coming into operation of the European Arrest Warrant Act 2003 on 1 January 2004 up to 31 December 2023.

Appendix 1

Number of European Arrest Warrants/TCA Warrants received by Ireland in 2023 by Country

Country	Number of EAW/TCA Warrants received
Austria	1
Croatia	3
Czech Republic	8
Estonia	1
France	3
Germany	6
Greece	1
Hungary	2
Italy	10
Latvia	1
Lithuania	7
Poland	30
Portugal	3
Romania	11
Spain	2
Sweden	2
United Kingdom	44
Total	135

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	162
2011	176
2012	149
2013	157
2014	115
2015	96
2016	82
2017	73
2018	71
2019	109
2020	91
2021	125
2022	121
2023	122
Total	1,912

Appendix 3

Surrender Orders executed by Ireland in 2023 by country

State of Origin	Number of surrender orders executed by the State in 2023
Austria	2
Belgium	1
Croatia	9
Czech Republic	3
Denmark	1
Estonia	1
France	4
Germany	4
Hungary	1
Italy	1
Lithuania	8
Netherlands	1
Poland	57
Romania	4
Slovakia	3
Spain	2
Sweden	3
United Kingdom	17
Total	122

Appendix 4

Number of European arrest warrants and TCA warrants sent by Ireland in 2023 by country

Country	EAW/TCA warrants transmitted in 2023
Austria	1
Belgium	2
Bulgaria	1
Denmark	1
France	2
Germany	6
Greece	1
Italy	3
Lithuania	1
Poland	3
Portugal	2
Romania	10
Slovakia	1
Spain	7
United Kingdom	57
Total	98

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
2019	51
2020	49
2021	81
2022	86
2023	46
Total	853

Appendix 6

Number of surrenders to Ireland in 2023 by Country

Country	Number of individuals surrendered
Belgium	1
Denmark	1
Germany	1
Italy	1
Netherlands	1
Poland	3
Portugal	2
Romania	5
Spain	8
United Kingdom	23
Total	46