European arrest warrant and surrender procedures between Member States. Framework decision

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The Commission presents its report on the implementation since 2005 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States. Its evaluation shows thatthe arrest warrant is a success. This second report is in response to a call made by the Council on 2 June 2005to update its previous evaluation (please see the summary of 24/01/2006) to 1 June 2007 with the entry of Romania and Bulgaria into the Union on 1 January 2007.

The report shows how its use has grown year by year, in practice making it easy for judges to get persons handed over within binding time limits that are much shorter than with conventional extradition procedures. The Commission does, however, highlight in this report the transposition difficulties that had to be overcome in 2005, some of them stemming from constitutional requirements.

The total number of requests exchanged between Member States has risen sharply. The European arrest warrant has therefore not only virtually replaced the extradition procedure within the EU, but the use made of it, because of its advantages, is now much more widespread. The remaining cases of non-application mainly concern certain restrictions on the transitional application of the European arrest warrant and the surrender of nationals. These are described in the report.

For the whole of 2005, nearly 6 900 warrants were issued by the 23 Member States that sent in figures, twice as many as in 2004. In over 1 770 cases, the person wanted was traced and arrested. Unofficial figures for 2006 confirm this upward trend from year to year. The warrants were transmitted mainly by Interpol (58% of all those issued) and/or by the Schengen Information System, in the 13 Member States with access to it (52% of the same total). In most of the remaining cases the European arrest warrants were simply sent direct between the Member States concerned. The figure communicated by 23 Member States for the total number of European arrest warrants received was over 8 500, i.e. more than the number issued, since a European arrest warrant can be sent to more than one Member State.

Overall the figures available for 2005 confirm that with the European arrest warrant, surrenders are effected within much shorter time limits than in the past. On average the time taken to execute requests, which used to be around a year under the old extradition procedure, has been reduced to under 5 weeks and even 11 days in the frequent caseswhere the person consents to surrender (the corresponding figures for 2004 being around 45 and 15 days respectively). However, this average must not hide the fact that certain countries (IE and UK) take much longer and even exceed the maximum time limits set in the Framework Decision, something the Commission very much regrets. In 2005, the Commission noted around 80 cases (scarcely 5% of surrenders) where the 90-day time limit set in Article 17(4) of the Framework Decision could not be respected. The Commission would point out that while all delays are systematically reported to Eurojust by certain countries, this is not true for all of them and would urge all Member States to make the appropriate efforts.

The report confirms the general conclusions drawn with respect to 2004. Despite an initial delay of up to 16 months (IT) and problems caused by constitutional difficulties in at least two Member States (DE during part of 2005 and 2006, CY), the implementation of the Framework Decision has been a success. The European arrest warrant has been operational throughout all the Member States including BU and RO since 1 January 2007. Its positive impact is borne out daily in terms of judicial control, efficiency and

speed, always with full respect for fundamental rights. Although the need for certain improvements in transposition became apparent in 2005, these corrections remain peripheral to the process. The list of those Member States which need to make an effort to comply fully with the Framework Decision (notably CZ, DK, EE, IE, IT, CY, LU, MT, NL, PL, SI, UK) is still a long one.