Evaluation of the European arrest warrant

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The European Parliament adopted a resolution based on the own-initiative report drafted by on the evaluation of the European arrest warrant. The Commission's initial evaluation shows that the latter has demonstrated its effectiveness by comparison with the extradition procedure, while also making it possible to reduce the risks of a defendant or sentenced person eluding justice for reasons of 'legal sovereignty', as well as to fight organised crime and terrorism more effectively. One of the advances introduced by the European arrest warrant is the removal of interference by the political authorities in the procedure, by contrast with the extradition procedure.

Parliament referred to the wishes expressed by several Member States concerning retention of certain elements of the traditional extradition system (controls to avoid double jeopardy, intervention of the political authorities in the judicial procedure) or the introduction of additional grounds for refusal which Parliament stated, would be contrary to Framework Decision 2002/584/JHA, such as political reasons, national security or human rights arguments. It also referred to the difficulties of transposition encountered by several Member States (especially Germany) and to the need to bring national constitutions into line with Framework Decision 2002/584/JHA in order to permit the surrender of nationals (in particular in Poland and Cyprus). These problems may undermine mutual trust and lead to a chain reaction which could threaten the implementation of the European arrest warrant by other Member States, as is demonstrated by the fact that, following the decision by the German Constitutional Court to annul the legislation transposing the Framework Decision, a number of Member States have indicated that they will have to return to applying, on a transitional basis, the extradition instruments that existed before the European arrest warrant, pending adoption of a new transposing law that is compatible with the German Basic Law. Parliament also referred to the Convention establishing a Nordic arrest warrant was signed on 15 December 2005 by Denmark, Finland, Iceland, Sweden and Norway and stated that the EU could usefully take inspiration from the Nordic arrest warrant to improve the effectiveness of the European arrest warrant.

Parliament addressed certain recommendations on the matter to the Council, notably as the following:

Transposition and implementation in practice: the Council should:

- adopt the framework decision on certain procedural rights in criminal proceedings throughout the EU, taking account of Parliament's amendments in its position of 12 April 2005; this measure is essential in order to ensure the same standard of legal protection for all European citizens, and its guarantees will facilitate the surrender by a Member State of one of its nationals to another Member State;

- ensure that, in the transposition of Framework Decision 2002/584/JHA, Member States do not reinstate systematic checks regarding double jeopardy for their nationals, as this would undermine both the effectiveness of the European arrest warrant and erode mutual trust between Member States;

- ensure that no political authority may interfere in the operation of the European arrest warrant;

- ensure that the difficulties persisting in some Member States over the application of Framework Decision 2002/584/JHA are resolved;

Evaluation: the Council should

- undertake a more detailed evaluation of the problems encountered by legal professionals in the various Member States, backing it up with a qualitative assessment arrived at via a breakdown of the European arrest warrants by type of offence;

- inform and consult regularly the European Parliament and national parliaments on the progress achieved in the implementation of the European arrest warrant.

Fundamental rights: the Council should:

- ensure that the Member States, when transposing the Framework Decision, do not require the judicial authority executing a European arrest warrant systematically to check whether the warrant complies with fundamental rights. Parliament pointed out that the system is based on the principle of mutual recognition and the issuing Member State carries out that check.

- pay close attention to the issue of respect for human rights and individual freedoms in the implementation of the European arrest warrant, a task to which the proposed Agency for Fundamental Rights should be asked to contribute.

Effectiveness and democracy: the Council should ensure that the European arrest warrant be brought under the first pillar, so as to make the measures taken in connection with the European area of freedom, security and justice truly democratic and more effective.