Basic information

2013/2109(INL) INL - Legislative initiative procedure	Procedure completed
Review of the European Arrest Warrant **Subject** 7.30.20 Action to combat terrorism 7.30.30 Action to combat crime 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	LUDFORD Baroness Sarah (ALDE)	08/04/2013
	Shadow rapporteur GÁL Kinga (PPE) SIPPEL Birgit (S&D) SARGENTINI Judith (Verts/ALE) KIRKHOPE Timothy (ECR) DE JONG Dennis (GUE/NGL)	

European Commission

Commission DG	Commissioner
Justice and Consumers	REDING Viviane

Key events

Date	Event	Reference	Summary
13/06/2013	Committee referral announced in Parliament		
13/01/2014	Vote in committee		
28/01/2014	Committee report tabled for plenary	A7-0039/2014	Summary
26/02/2014	Debate in Parliament		
27/02/2014	Decision by Parliament	T7-0174/2014	Summary
27/02/2014	Results of vote in Parliament		

27/02/2014	End of procedure in Parliament		

Technical information	
Procedure reference	2013/2109(INL)
Procedure type	INL - Legislative initiative procedure
Procedure subtype	Request for legislative proposal
Legal basis	Rules of Procedure EP 47
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/12924

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE522.805	19/11/2013	
Amendments tabled in committee		PE524.766	23/12/2013	
Committee report tabled for plenary, single reading		A7-0039/2014	28/01/2014	Summary
Text adopted by Parliament, single reading		T7-0174/2014	27/02/2014	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2014)447	22/07/2014	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Review of the European Arrest Warrant

2013/2109(INL) - 28/01/2014 - Committee report tabled for plenary, single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted a report by Sarah LUDFORD (ALDE, UK) containing recommendations to the Commission on the review of the European Arrest Warrant (EAW) (*Initiative – Rule 42 of the Rules of Procedure*).

Framework Decision 2002/584/JHA has been successful in meeting its aim of speeding up surrender procedures throughout the Union compared to the traditional extradition system among Member States. It constitutes the cornerstone of mutual recognition of judicial decisions in criminal matters.

Problems have however arisen in its operation, some specific to Framework Decision 2002/584/JHA and resulting from gaps in the Framework Decision such as failing to explicitly include fundamental rights safeguards or a proportionality check as well as from the incomplete and inconsistent implementation thereof. Other problems are shared with the set of mutual recognition instruments due to the incomplete and unbalanced development of the Union area of criminal justice.

The Commission was requested to **submit, within a year, on the basis of Article 82 of the TFEU, legislative proposals** following the detailed recommendations set out in the Annex of this report and providing for:

- a **procedure** whereby a mutual recognition measure can, if necessary, be validated in the issuing Member State by a judge, court, investigating magistrate or public prosecutor, in order to overcome the differing interpretations of the term “judicial authority”;
- a **proportionality check** when issuing mutual recognition decisions, based on all the relevant factors and circumstances such as the seriousness of the offence, whether the case is trial-ready, the impact on the rights of the requested person, including the protection of private and family life, the cost implications and the availability of an appropriate less intrusive alternative measure;
- a **standardised consultation procedure** whereby the competent authorities in the issuing and executing Member State can exchange information regarding the execution of judicial decisions such as on the assessment of proportionality and specifically in regard to the EAW to ascertain trial-readiness;
- a **mandatory refusal ground** where there are substantial grounds to believe that the execution of the measure would be incompatible with the executing Member State's obligation in accordance with Article 6 of the TEU and the Charter of Fundamental Human Rights of the European Union;
- **the right to an effective legal remedy** in compliance with the European Convention on Human Rights (ECHR), such as the right to appeal in the executing Member State against the requested execution of a mutual recognition instrument and the right for the requested person to challenge before a tribunal any failure by the issuing Member State to comply with assurances given to the executing Member State;
- a **better definition of the crimes** where the EAW should apply in order to facilitate the application of the proportionality test.

The report, furthermore, called for:

- a **clear and consistent application** by all Member States of Union law regarding procedural rights in criminal proceedings linked to the use of the EAW;
- a regular **review of non-executed EAWs** and consideration of whether they, together with the corresponding SIS II and Interpol alerts, should be withdrawn;
- **better cooperation between the Member States and the Commission** to strengthen contact networks of judges, prosecutors and criminal defence lawyers, and to offer relevant training at national and Union level to judicial and legal practitioners in *inter alia* languages, on the proper use of the EAW.

The Commission is called upon to:

- facilitate the setting up of a **specific European Arrest Warrant Judicial Network** and a network of defence lawyers working on European criminal justice and extradition matters;
- establish and make easily accessible a **Union database** collecting all national case-law relating to EAW and other mutual recognition proceedings;
- **ensure the effectiveness of the mutual recognition framework** and to explore the legal and financial means available at Union level to improve standards of detention including legislative proposals on the conditions of pre-trial detention.

Review of the European Arrest Warrant

2013/2109(INL) - 27/02/2014 - Text adopted by Parliament, single reading

The European Parliament adopted by 495 votes to 81, with 11 abstentions, a resolution on containing recommendations to the Commission on the review of the European Arrest Warrant (EAW).

Framework Decision 2002/584/JHA has been successful in meeting its aim of speeding up surrender procedures throughout the Union compared to the traditional extradition system among Member States. It constitutes the cornerstone of mutual recognition of judicial decisions in criminal matters.

Problems regarding the implementation of the EAW Decision: problems have however arisen in its operation and resulting from gaps in the Framework Decision. Other problems are shared with the set of mutual recognition instruments. In particular, the following cause concern:

- the absence of explicit references to Fundamental Right guarantees;
- the absence of a provision on an effective remedy, this right should be governed by national law which leads to legal uncertainty;
- the lack of regular review of the Schengen Information System (SIS II) and Interpol alerts as well as the lack of an automatic link between the withdrawal of an EAW and the removal of such alerts;
- the lack of precision in the definition of serious crimes list;
- disproportionate use of the EAW for minor offences;
- the lack of a definition of the term ‘judicial authority’;
- the absence of minimum standards to ensure effective judicial oversight of mutual recognition measures;
- the absence of minimum standards on pre-trial detention;
- the unacceptable conditions in a number of detention facilities across the Union;
- a lack of legal representation being provided for those persons sought under an EAW;
- the lack of a proper definition of criminal offences to which the test of dual criminality no longer applies.

Recommendations for the revision of the EAW: in the light of the weaknesses outlined, the Commission was requested to **submit, within a year, on the basis of Article 82 of the TFEU, legislative proposals** following the detailed recommendations set out in the Annex of this report and providing for:

- a **procedure** whereby a mutual recognition measure can, if necessary, be validated in the issuing Member State by a judge, court, investigating magistrate or public prosecutor, in order to overcome the differing interpretations of the term “judicial authority”;
- a **proportionality check** when issuing mutual recognition decisions, based on all the relevant factors and circumstances such as the seriousness of the offence, whether the case is trial-ready, the impact on the rights of the requested person, including the protection of private and family life, the cost implications and the availability of an appropriate less intrusive alternative measure;
- a **standardised consultation procedure** whereby the competent authorities in the issuing and executing Member State can exchange information regarding the execution of judicial decisions such as on the assessment of proportionality and specifically in regard to the EAW to ascertain trial-readiness;
- a **mandatory refusal ground** where there are substantial grounds to believe that the execution of the measure would be incompatible with the executing Member State's obligation in accordance with Article 6 of the TEU and the Charter of Fundamental Human Rights of the European Union;
- **the right to an effective legal remedy** in compliance with the European Convention on Human Rights (ECHR), such as the right to appeal in the executing Member State against the requested execution of a mutual recognition instrument and the right for the requested person to challenge before a tribunal any failure by the issuing Member State to comply with assurances given to the executing Member State;
- a **better definition of the crimes** where the EAW should apply in order to facilitate the application of the proportionality test.

Parliament, furthermore, called for:

- a **clear and consistent application** by all Member States of Union law regarding procedural rights in criminal proceedings linked to the use of the EAW;
- a regular **review of non-executed EAWs** and consideration of whether they, together with the corresponding SIS II and Interpol alerts, should be withdrawn;
- **better cooperation between the Member States and the Commission** to strengthen contact networks of judges, prosecutors and criminal defence lawyers, and to offer relevant training at national and Union level to judicial and legal practitioners in *inter alia* languages, on the proper use of the EAW.

The Commission is called upon to:

- facilitate the setting up of a **specific European Arrest Warrant Judicial Network** and a network of defence lawyers working on European criminal justice and extradition matters;
- establish and make easily accessible a **Union database** collecting all national case-law relating to EAW and other mutual recognition proceedings;
- **ensure the effectiveness of the mutual recognition framework** and to explore the legal and financial means available at Union level to improve standards of detention including legislative proposals on the conditions of pre-trial detention.