
Revising the European Arrest Warrant

European Added Value Assessment
accompanying the European Parliament's
Legislative own-Initiative Report
(Rapporteur: Baroness Ludford MEP)

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European added value of revising the European Arrest Warrant

AUTHOR

Micaela Del Monte, European Added Value Unit

ABOUT THE EDITOR

This paper has been drafted by the **European Added Value Unit** of the Directorate for Impact Assessment and European Added Value, within the Directorate-General for Parliamentary Research Services (DG EPRS) of the Secretariat of the European Parliament.

To contact the Unit, please email: eava-secretariat@europarl.europa.eu

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On 17 June 2013, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) requested a European Added Value Assessment (EAVA) to support its work on the legislative own-initiative report by Baroness Sarah Ludford which recommends the revision of the European Arrest Warrant (2013/2109(INL))¹.

In the resolution attached to this report, Parliament calls on the Commission to submit legislative proposals aimed at improving the functioning of the European Arrest Warrant. The arguments in favour of this approach are set out in detail in this European Added Value Assessment.

This assessment builds on expert research commissioned specifically for the purpose and carried out by:

- A. Weyembergh, Professor at the Université Libre de Bruxelles (ULB), with the assistance of I. Armada and C. Brière on a critical assessment of the existing European Arrest Warrant Framework Decision;
- A. Doobay on the need for intervention at EU level, by assessing whether the European Arrest Warrant Framework Decision is effective, complete and consistently applied among Member States.

Abstract

The European Parliament position is that it is crucial to ensure a streamlined process of extradition which does not infringe fundamental rights.

The present European Added Value Assessment analyses issues arising from the European Arrest Warrant (EAW) Framework Decision and its practical implementation. It argues that although the EAW is generally recognised as a successful instrument ensuring that criminals are brought to justice, its practical implementation has been subject to persistent criticism since its introduction. It also estimates that the costs of certain inefficiencies are around **215 million euro**.

This European Added Value Assessment looks at the different problems and their root causes and proposes some feasible solutions (legislative or non-legislative, at national or EU level).

It recommends a holistic approach which would include a number of legislative and non-legislative measures in order to ensure a fair and coherent implementation of the EAW.

¹ European Parliament Resolution of 27 February 2014 with recommendations to the Commission on the review of the European Arrest Warrant - A7-0039/2014

Note on methodology

This assessment note seeks to analyse the potential European Added Value of an EU measure addressing the most significant and widespread issues hampering the comprehensive, effective and efficient application of the European Arrest Warrant Framework Decision. In particular, it aims to support the views and political choices expressed by the European Parliament in its resolutions on the matter.

Firstly, the assessment note investigates whether there is a rationale for taking action at EU level by revising the existing Framework Decision or asking for additional EU measures to be adopted; and whether the measures proposed 'add value' to what already exists at European and national level.

In doing so, it assesses whether the objective of the EAW has been met or whether there are deficiencies and inconsistencies in the way it is being implemented which cause its effectiveness to be undermined, and whether the provisions of the Framework Decision need to be complemented with further legislative or policy action.

Secondly, it looks at the most significant and widespread problems and tries to identify the appropriate solutions, whether legislative or non-legislative, at the most pertinent level, be it EU or national level.

Thirdly, it looks at the proposed solutions and assesses their practical feasibility.

Lastly, it attempts to assess the negative direct and spill-over effects that have arisen from the problematic issues identified. These descriptions are not intended to be exhaustive or to lend themselves to precise measurement, but, rather, to provide an overview of some of the possible negative side-effects.

Overall, the assessment aims to produce specific findings regarding the European Added Value of the proposed measure and to raise awareness of the need to intervene at European level in the policy area under consideration.

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Executive summary

Efficient justice and security policy depends on effective cooperation in criminal cases, including an efficient extradition system. However, it must not, and need not, involve sacrificing basic principles of fairness and justice. The European Arrest Warrant Framework Decision passed quickly through the legislative process, in the wake of the 9/11 attacks in the United States. It was clearly intended to ensure that perpetrators of such horrendous acts would not escape prosecution.

Nevertheless, the implementation of the Framework Decision has clearly shown that there is a tension between the objectives of achieving effective judicial cooperation and ensuring adequate human rights protection.

It is important to balance the need to return alleged offenders to the country in which the crime took place with the need to respect the rights of those whose extradition is called for.

The weaknesses of the EAW not only undermine the credibility of the process, but are also costly for the individuals concerned, their families and for the taxpayer in general. Between 2005 and 2009, **almost three-quarters (43,059) of incoming EAWs were not executed.**

The reasons for this are multiple, and in the meantime Member States have borne the costs of such inefficiencies, which have been roughly estimated to be around **215 million euro.**

The present European Added Value Assessment looks at these imperfections and concludes that some of them can only be solved at EU level if we are to ensure coherence and enhance mutual trust among Member States.

In the interest of coherence and consistency within the EU criminal justice area a multi-level and integrated approach, including different mutual recognition instruments is needed. This might represent a significant political challenge but is considered necessary if the EAW system is to operate fairly and effectively.

Background

The EAW², which entered into operation on 1 January 2004, is an important instrument of the mutual recognition principle, based on mutual trust. It introduced a common mechanism for extradition of individuals between EU Member States, based on the principle of the mutual recognition of the judicial decisions in other EU countries. The objective of the EAW Framework Decision is to make it quicker and easier to bring suspects and accused persons to justice by replacing the old, cumbersome, extradition procedure with a new and faster surrender system based on mutual recognition which implies the mandatory execution of decisions. The EAW facilitates the surrender of a person from one Member State to another by, *inter alia*, setting strict time limits and limiting the grounds for refusal.

Since its introduction, it has provided a more efficient mechanism to ensure that open borders are not exploited by those seeking to evade justice. Indeed, seven years after its entry into force, the Commission considers its operational implementation to be a success: in particular, the average delay in extradition has decreased, from one year in the pre-EAW period, to fifteen days for those extradited with their consent and fifty days for cases without consent³.

In this context, mutual recognition is designed not only to strengthen cooperation between Member States but also to enhance the judicial protection of the individual's rights and freedoms. Implementation presupposes that Member States have trust in each other's criminal justice systems and that this trust is grounded in particular in their shared commitment to the principles of freedom, democracy, and respect for human rights, fundamental freedoms and the rule of law.

The EAW has been developed on the assumption that Member States share and practice the same standards in their judicial systems, in protecting fundamental rights, in prison conditions, etc. It requires the executing Member State to execute the warrant without making any assessment regarding the substance of the accusation/conviction.

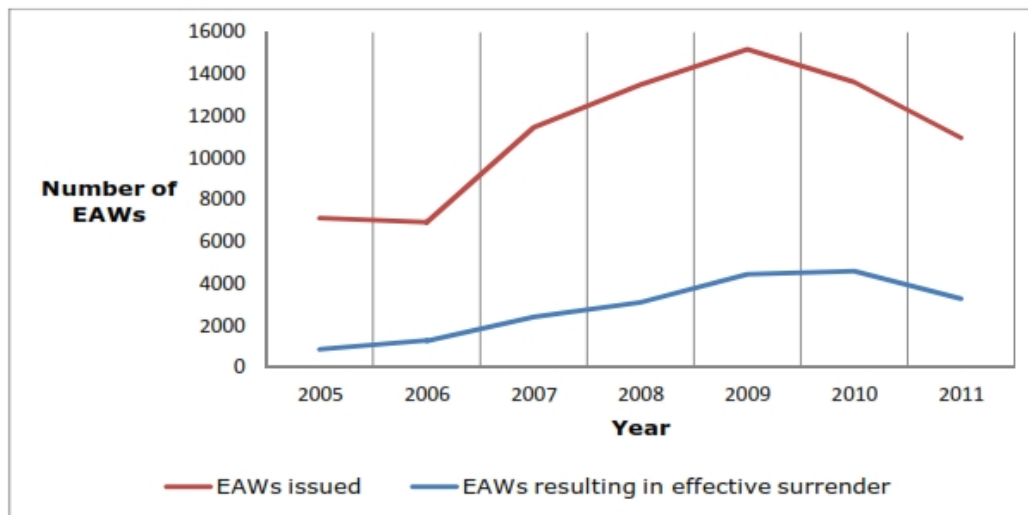
² Council Framework Decision 2002/584/JHA, amended in 2009 by Council Framework Decision 2009/299/JHA.

³ Report from the Commission to the European Parliament and the Council on the implementation since 2007 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (COM(2011)0175).

However, this mutual trust has been called into question by the practical application of the EAW. For instance, in some Member States many more EAWs are issued than in others for different reasons. This unbalance may produce unnecessary administrative burden for Member States receiving them.

Confidence has been undermined by criticism arising from the systematic use of EAWs for minor offences or by Member States applying different principles in their national judicial systems on the assumption that the issuing Member States applied lower standards with regard to procedural safeguards or fundamental rights in general.

Figure 1 - EAWs issued and resulting in effective surrender, 2005-2011⁴



The three Commission reports⁵ on the implementation of the 2002 Decision, as well as other academic assessments, offer a generally positive view of the EAW and its application. However, they all reveal imperfections in the functioning of the system in relation to aspects including the procedural rights of suspected and accused persons, detention conditions, alleged over-use of EAWs by some Member States, unequal application of the proportionality test, etc.

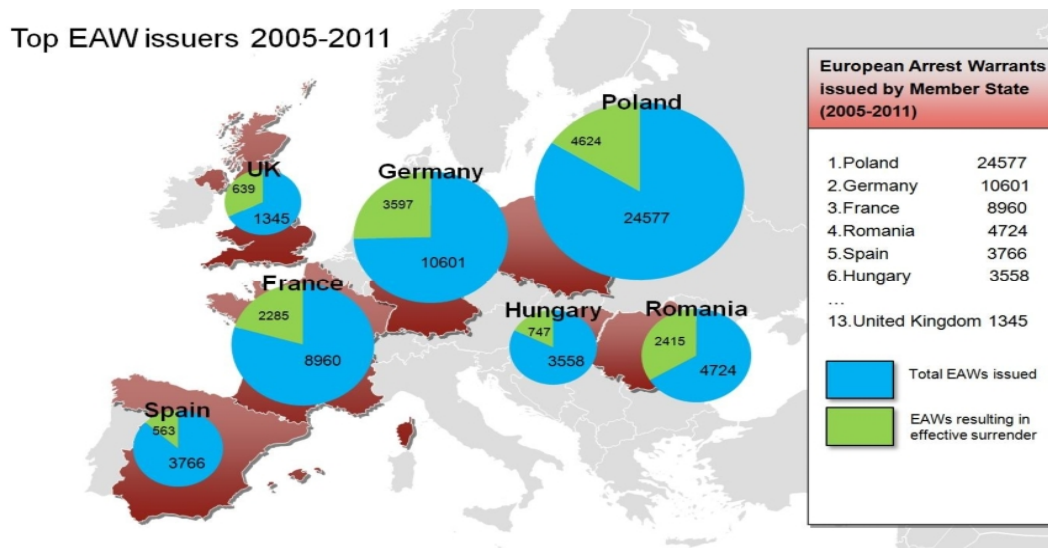
However, the first caveat to be entered when assessing the effectiveness of the current mechanism is the fact that statistical data on the EAW are far from being fully reliable. This was clearly acknowledged by the European Commission in

⁴ S. Carrera, E. Guild and N. Hernanz: 'Europe's most wanted? Recalibrating trust in the European Arrest Warrant System'. CEPS 2013; available at: <http://www.ceps.eu/book/europe%E2%80%99s-most-wanted-recalibrating-trust-european-arrest-warrant-system-0>

⁵ COM(2005)0063; COM(2007)0407; COM(2011)0175

the 2011 implementation report⁶. For instance, the main sources of information on the quantitative use of EAWs by Member States is the Council questionnaire, in which some national authorities reply referring to the calendar year while others refer to the financial year. Equally, some Member States report only on concluded cases while others also report on pending cases, etc⁷.

Figure 2 - EAWs issued and resulting in effective surrender by Member State, 2005-2011⁸



The lack of consistent and reliable statistical data seems to suggest that a sound statistical method allowing qualitative assessment and impartial evaluation of the use of the EAW by Member State authorities is urgently required.

The figure below shows the number of warrants received by certain Member States in 2011 and the resulting surrenders. There are various reasons why the issuing of an EAW may not lead to surrender, including a number of mandatory and optional grounds listed in the EAW Framework Decision.

⁶ The document COM(2011)0175 states: 'There are considerable shortcomings in the statistical data available for analysis. Not all Member States have provided data systematically and Member States do not share a common statistical tool. Moreover, different interpretations are to be found in the answers to the Council's yearly questionnaire' (p. 10).

⁷ For a detailed analysis of methodological deficiencies in the statistical data, see: S. Carrera, E. Guild and N. Hernanz, 'Europe's most wanted? Recalibrating trust in the European Arrest Warrant System', CEPS 2013.

⁸ Source as in previous footnote.

Figure 3 - Number of EAWs received by Member States and corresponding surrenders⁹

Member State	Number of EAWs received	Number of resulting surrenders	Percentage
Germany	14,034	979	7 %
UK	6,760	999	15 %
Spain	1,435	889	62 %
France	1,102	756	69 %
Belgium	602	61	10 %
Czech Republic	302	186	62 %
Poland	296	186	63 %
Lithuania	122	54	44 %

A reliable oversight mechanism would also help identify the reasons why each year a large proportion of EAWs are not executed,¹⁰ and would possibly address some of the shortcomings identified.

Inconsistent application among Member States

When assessing the effectiveness of the existing Framework Directive (FD), one should obviously look at the implementing measures at national level. The lack of precision of certain provisions of the Framework Directive has resulted in overall inconsistency among the national implementing measures (e.g. those of Article 15(2) on the **extent of additional information** that may be requested by the executing authorities; Articles 17 and 23 on the **provisions on time-limits**, more precisely the question of whether they include legal remedies or not; and, in Article 16, the wording of the provision outlining the procedure to be followed in case of **multiple requests**).

Indeed, while some national implementing acts adhere closely to the terms of the Framework Directive (e.g. France, Belgium, Luxembourg), others depart from its requirements in many respects (e.g. Italy, the United Kingdom). Although some shortcomings have been corrected by internal legislative reforms or have been nuanced by the national case-law, many of them remain. This leads to a 'variable geometry' among the Member States, which could possibly be addressed by the

⁹ Data source: Council of the European Union, Replies to the questionnaire on quantitative information on the practical operation of the EAW, 2011.

¹⁰ According to COM(2011)0175, Annex I, between 2005 and 2009 54 689 EAWs were issued but only 11 630 were executed.

Commission through enforcement proceedings after the end of the transitional period (1 December 2014).

A lack of precision when **transmitting a translated EAW** provides a detailed example of this phenomenon. According to Article 8(2) of the Framework Decision, an EAW should be sent together with a translation into the official language of the executing state or another language accepted by that state. There is no indication regarding either the deadlines to be respected for the transmission of the translated EAW or the consequences attached to non-respect of those deadlines¹¹. The result is that differences arise among Member States concerning:

- the **languages accepted**: some Member States accept their national language only (e.g. Bulgaria, France or Poland), while others also accept other languages (notably English);
- the **deadlines for transmitting** the language-compliant EAW: these vary from 24 hours in Bulgaria to 40 days in Germany or Austria;
- the **consequences of non-respect of these requirements**: whereas flexibility characterises certain Member State practice in this regard¹², in a number of Member States, non-respect of the deadline results in the release of the person.

These significant differences among national implementing laws result in multiple negative impacts related to: shortage of translation facilities in some Member States; their associated costs; difficulty in producing translations into the less common languages within a short period of time; poor-quality translations; confusion created by disparities in time limits; and risk of delay preventing execution of a warrant.

In relation to Article 15(2) of the Framework Directive, the extent to which **additional information** may be requested by the executing authorities is unclear, and the result is an erratic practice leading to some extreme cases. For instance, some executing Member States regularly request detailed additional information (e.g. Ireland and the United Kingdom), while others fail to request even basic information, leading to errors, such as mistaken identity.

¹¹ The practical implementation of Article 8(2) is further complicated by the fact that most EAWs are transmitted via the SIS system (as opposed to direct transmission) because the exact location of the requested person is often unknown. This means that the translation into the language required by the executing state only takes place after arrest.

¹² See: Council of the European Union, Evaluation report on the fourth round of mutual evaluations - Report on Poland, Doc. 14240/2/07, 7 February 2008, p. 20.

Figure 4 - Concrete cases in Estonia¹³, Italy¹⁴ and Spain¹⁵**On the transmission of translated EAWs**

A person arrested in Latvia at 8 p.m. on a Friday was released because the Estonian authorities provided the Latvian translation of the EAW on the Tuesday morning, failing to comply with the requirement to supply a translation within 72 hours.

On the additional information which may be requested by executing MS

These cases are not frequent but do exist.

In the 'Praczijk' case, an Italian judicial authority issued an EAW against a person called Praczijk. On that basis, a Belgian national called Praczijk was arrested by the Belgian authorities and detained. In spite of doubts about his identity, no request for further information was addressed to the issuing authorities. Praczijk was surrendered to Italy, where the competent authorities soon realised that he was not the right person and released him.

A request to Ireland presented the opposite scenario. The Spanish authorities were required by the Irish central authority to prepare five EAWs for the same person and had to comply with requests for information which included:

- confirmation that the street number preceded rather than followed a street address;
- confirmation that the requested person was to be charged with the stated offence;
- confirmation as to why a single word was typed in lower case in the address section of the EAW whereas the translated version was all in lower case;
- copies of requests made by defence counsel enquiring into the facts and evidence of the stated offence (requiring that responses be provided);
- confirmation concerning the objective competence of the issuing judicial authority; and
- confirmation as to the appropriateness of the Spanish investigative procedures relating to homicide.

It is reasonable to conclude that borderline and abusive practices are alien to the philosophy underlying the EAW Framework Decision, leading to unnecessary administrative burdens and financial costs rather than boosting mutual trust among Member States or citizens. In order to avoid abusive practices, introducing a consultation procedure between relevant authorities in the issuing

¹³ Council of the European Union, Evaluation report on the fourth round of mutual evaluations - Report on Estonia, Doc. 5301/1/07, 19 March 2007, p. 11.

¹⁴ See: Decision of 19 May 2006 of the 'Chambre du Conseil de Tongres' (unpublished); Decision by of 2 June 2006 of the 'Chambre des mises en accusation d'Anvers', T. Strafr. 2006, pp. 346 et seq.; De Hert and Millen, 'Ontvankelijkheidstoetsing en onschuldverweer bij het Europees aanhoudingsbevel', pp. 347-348).

¹⁵ Council of the European Union, Evaluation report on the fourth round of mutual evaluations - Report on Spain, doc. 5085/2/07, 6 June 2007, p. 17.

and executing Member State and applicable to the different mutual recognition instruments would help build mutual trust. This would ensure smooth cooperation among MS when dealing with mutual recognition instruments (not only the EAW), as well as consistency within the EU area of criminal justice.

Another element to be considered is the interaction between the different **EU legal measures** in this area, given the aim of ensuring consistency and coherence.

Some of the possible solutions could be found in legislative measures which are still too recent because they have not yet been transposed, are still under negotiation or had not been proposed by the Commission until recently. In November 2013, while the present assessment was on-going, the Commission proposed new directives on, respectively: strengthening of certain aspects of the presumption of innocence; the right to be present if under trial in criminal proceedings¹⁶; procedural safeguards for children suspected or accused in criminal proceedings¹⁷; and provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings¹⁸. The two last-named contain specific provisions for EAW proceedings.

Moreover, the political context should be carefully considered because of the serious risk of regressing or departing from the philosophy of the principle of mutual recognition. At this stage, the consequences of a regression would be highly regrettable, both symbolically and practically.

Finally, it is also important to consider the **national legislative action** taken to address certain well-known problems. For instance, in the case of Poland, a country which has been criticised on numerous occasions for issuing disproportionate number of warrants, the adoption of 'soft law' measures¹⁹ and certain on-going legislative initiatives²⁰ have had an impact, as shown in the figure below.

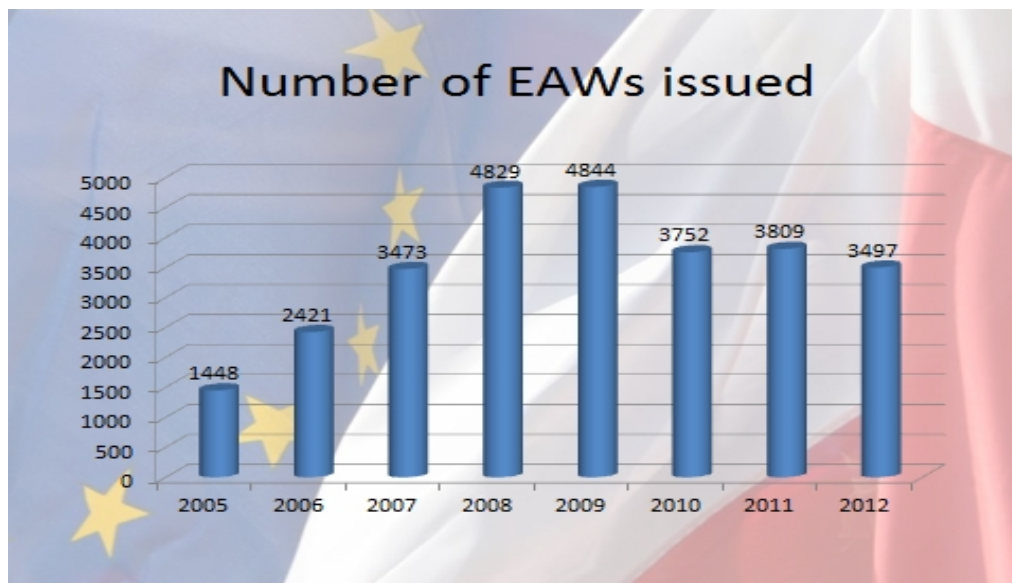
¹⁶ COM(2013)0821/2.

¹⁷ COM(2013)0822/2.

¹⁸ COM(2013)0824.

¹⁹ These include the publication of a revised national handbook, the organisation of supervised training for judges and prosecutors, circulars sent to the courts addressing the issue, and holding bilateral meetings with the MS most affected (the United Kingdom and Spain).

²⁰ Among these are the proposed amendments of Article 607a of the Code of Criminal Procedure, and the reform now envisaged which will tackle the structure of punishments in order to promote greater resort to financial penalties for less serious offences.

Figure 5 - Number of EAWs issued in Poland²¹**The problems identified²²**

When assessing the need (if any) for intervention, it is of the utmost importance to identify the root cause of the problem. This will affect the nature of the proposed solution (e.g. legislative or non-legislative) as well as the identification of the appropriate level of intervention (EU or national level).

Some problems are **due to the Framework Directive itself** while others are due to the **incompleteness and imbalances of the EU Area of Criminal Justice**. It is important to bear in mind the distinction between the two when discussing the possible introduction of further legislation at EU level. Moreover, the distinction will also affect the nature of the proposed solution.

Among the issues within the Framework Decision itself, **the absence of an explicit ground for refusal based on the infringement or risk of infringement of human rights** has to be mentioned. This omission results in important differences between Member States in transposing legislation: while some Member States, such as Greece, Belgium, the United Kingdom or Italy, have introduced this possibility at national level, others have not. However, this

²¹ Figures presented by Dr T. Ostropolski at the ALDE hearing of 17 October 2013: following a peak in 2009 with 4844 EAWs issued, the numbers fell in 2010, 2011 and 2012 (with only 3497 EAWs being issued in 2012).

²² For a detailed assessment of the main problems and issues identified, see Annex I to A. Weyembergh, 'Critical Assessment of the existing European Arrest Warrant Framework Decision'.

patchwork situation where each Member State has developed its own legal framework and consequent legal practices is not optimal, when one is dealing with fundamental rights in the area of EU criminal law, in which all citizens should benefit from the same level of protection.

Moreover in practice, difficulties arise for defendants in establishing the infringement, or risk of infringement of fundamental rights, particularly in Member States where such grounds for refusal do not exist. Indeed in those Member States, judicial authorities are more reluctant to disregard their express mutual recognition obligations by taking fundamental rights concerns into consideration.

An EU criminal law area based on mutual trust requires a reliable system to ensure that high human rights standards are respected and implemented on an equal basis. This approach is neither new nor peculiar to the EAW. Recently an explicit human rights ground for refusal²³ was negotiated between the Council and the European Parliament concerning the European Investigation Order (EIO): this could be considered a precedent in the mutual recognition area. Having this clause in an instrument dealing with investigative measures, and not having it in the EAW mechanism where deprivation of liberty is at stake is hardly justifiable from a legal perspective, and undermines the coherence of the EU criminal justice area.

What would be the main advantages of explicit mandatory ground for refusal?

Providing an explicit mandatory ground for refusal would allow clarification of the text, increase legal certainty and improve consistency between national legislations. Ideally such an insertion, as suggested in the European Parliament Resolution of 27 February 2014 on the review of the EAW, would concern not only the EAW but all mutual recognition instruments, with a view to enhancing legal consistency among the different instruments. This latter argument is one of the most decisive in supporting the explicit human rights ground for refusal.

To introduce this explicit ground for refusal would require finding a balanced formulation which does not impair the mutual recognition principle and avoids abusive use of the clause. The burden of proof and the standards of proof should also be specified as clearly as possible, and there should be a rebuttable presumption of respect of fundamental rights, in line with the mutual recognition principle.

²³ The draft text states in its Article 10(1)(g): 'There are substantial grounds to believe that the execution of the investigative measure contained in the EIO would be incompatible with the executing Member State's obligations under Article 6 TEU and the Charter of Fundamental Rights of the European Union'. See also recital 12(aaa) of the same text.

Among the problems are due to the Framework Directive itself, one may also mention the issue of **legal remedies**. The negotiators of the EAW omitted any reference to the possibility of challenging the decision to execute a warrant, leaving a wide margin of appreciation to the Member State. As in the case of a fundamental rights ground for refusal, such an omission results in important differences in the legal remedies available at Member State level. For instance, whereas in Belgium the decision on the execution of a EAW is subject to the whole set of available legal remedies (i.e. 'Chambre du Conseil', 'Chambre des mises en accusation' and 'pourvoi en cassation'), this is not the case in Spain (where no right of appeal is explicitly provided for). This leads of course to differences in treatment regarding access to a judge and judicial review.

Apart from the differences in national law, there is also a serious consistency issue among the different legal remedies (see the different provisions concerning freezing property and evidence, European Evidence Warrant, the draft European Investigation Order, etc). Ideally, it would be advisable to strengthen consistency among these various legal remedies.

It is worth noting various problems related to the functioning of the **Schengen Information System (SIS)** with regard to the EAW. The SIS is the largest information system for public security in Europe. Since its inception, it has significantly contributed to the efficiency of the EAW system, particularly since the entry into operation in April 2013 of the second-generation Schengen Information System (SIS II)²⁴. Alerts on persons wanted for arrest for surrender subsequent to an EAW are entered into the system,²⁵ enabling a better operational cooperation between police and judicial authorities.

Despite the introduction of the second-generation system, two major issues remain unsolved. The first relates to the absence of an effective and regular system for the revision of SIS alerts by the issuing Member State. This results in outdated alerts, with consequent impact on fundamental rights of the individual such as freedom of movement. Article 44(1) of Council Decision 2007/533/JHA already requires issuing Member State to revise alerts within three years of entry into SIS II. In the event that this provision is not effective, a possible solution would be to reduce the time-limits in order to update the SIS system more frequently. Another alternative would be to reinforce the obligation to withdraw alerts as soon as they become unnecessary.

The second issue concerns the **uncertain impact of refusals to surrender** by a Member State. The Framework Decision does not tackle the issue and, under the

²⁴ Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II), OJ L 205, 7.8.2007, pp. 63-84.

²⁵ Article 9(2) EAW FD. See also Article 27 of the SIS II Decision.

current regime, a decision to refuse to execute an EAW is only valid in the territory of the executing Member State. One may argue that in a mutual recognition area there should also be mutual recognition of refusal.

On this latter point, particular attention should be paid to the different grounds for refusal, and especially to the two categories of ground for refusal, namely mandatory versus non-mandatory.

Another problem arising from the incompleteness and imbalances of the EU area of criminal justice relates to **EAWs issued in non-trial-ready cases**, which by definition concern only EAWs issued for prosecution purposes.

Issuing an EAW for hearing purposes constitutes a misuse of the instrument, which could be solved by extending the practice of hearings by videoconference, and also in conjunction with the EIO (should the latter prove to be efficacious).

Figure 6 - EAWs issued at a very early stage of the procedure in Latvia, Portugal and Spain

In Latvia, an EAW may be issued in either of the two phases into which the pre-trial investigation is divided, i.e. investigation and criminal prosecution. In the former case there is a risk that the public prosecutor will decide not to initiate prosecution, with the consequence that the individual subject to EAW proceedings is surrendered to another Member State and is subsequently released there.

In Portugal, the request can be sought in order for the person to appear before the examining magistrate.

In Spain, the domestic criminal code provides that, once the identity of the suspect is established, the individual must be brought before an investigating magistrate and given the opportunity to comment on the case against him/her. This mandatory obligation arises prior to a formal decision to charge. This situation has led to difficulties with common law countries which have challenged EAWs issued by Spain on the grounds that they were not trial-ready.

Difficulties also arise from differences in national procedural legislations as to the stage of the proceedings from which an EAW may be issued. When the EAW is issued at an early stage of the investigation, there are higher risks that the person will be arrested, surrendered and then released, or else will spend a long time in pre-trial detention. Preventing excessive and unjustified pre-trial detention could be achieved by making full use of the European Supervision Order (ESO)²⁶. This has been in force since December 2012, and should make it possible for EU

²⁶ 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 L 294, 11.11.2009, pp. 20-40).

nationals accused in another Member State to be returned to their home country to await trial.

Figure 7 - Key figures for pre-trial detention

The 2006 Impact Assessment accompanying the Commission proposal for the European Supervisory Order estimated that in each calendar year almost **10 000 EU nationals are held in pre-trial detention in a Member State other than their usual country of residence.**

The same Impact Assessment showed that the **average length of pre-trial detention is 5.5 months, although there are wide variations between Member States (from 43 to 365 days).**

This variation, and in particular the very long average periods of detention in some Member States, compounds the discrimination that EU citizens can experience. Not only may they be detained in circumstances in which in their country of residence they might not be, but the period of detention may also be longer than that which they would have experienced as a suspect in their country of residence.

Since this problem is linked to the issue of proportionality, it could be solved by, on the one hand, giving further consideration to available alternatives to pre-trial detention such as the European Supervisory Order, and, on the other, by introducing a compulsory proportionality test in the issuing Member State.

The proportionality issue also has a considerable impact on another problem which has been almost unanimously identified, whether by academics, legal practitioners or the European institutions, namely the **disproportionate use of the EAW for trivial offences.**

Figure 8 - Examples of EAWs issued for very minor offences

Numerous cases of EAWs being issued for the prosecution or enforcement of sentences relating to minor offences can be mentioned.

The list is long and includes cases where EAWs have been issued for:

- the theft of two tyres;
- possession of 0.15 grammes of heroin;
- the stealing of piglets;
- counterfeiting 100 euro.

The existing deep differences between national procedures and national substantive criminal laws are among the reasons explaining the problem of proportionality.

As already mentioned, thousands of extradition requests are made and granted each year. Whether or not the requests result in final surrender of the requested person, they have a significant impact in terms of people's lives (and in many cases livelihoods) and the use of public funds. Indeed, an EAW issued for minor or trivial offences can not only lead to injustice in individual cases but also place a significant and unjustified burden on Member State resources. It also has an adverse impact on the smooth functioning of the mutual recognition principle, as it creates the risk that Member States autonomously introduce a ground for refusal based on proportionality, as already happens de facto in Germany or Estonia.

One of the research papers commissioned for this EAVA argues that the introduction of a binding proportionality test as an issuance condition, coupled with a consultation procedure between issuing and executing MS, would be a feasible and effective solution in practice. Additional non-legislative measures, especially training, should also be pursued.

Closely related to these problems is the issue of poor **detention conditions** in certain Member States. In this sensitive area, there is a lack of EU initiatives, apart from the 2011 Green Paper²⁷. An EU measure setting down minimum standards for prisons and prison conditions would not only be beneficial for the practical implementation of the EAW, but would also have an influence on mutual trust. In 2011, the European Parliament formally called on the Commission to develop and implement minimum standards for prison and detention conditions²⁸. The same resolution also stressed that pre-trial detention should remain an exceptional measure to be resorted to only under strict conditions, in compliance with the presumption of innocence and the criterion of non-deprivation of liberty. However, to date no action has been taken on the matter, which is why the European Parliament Resolution of 27 February 2014 on the review of the EAW calls again *"on the Commission 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"*.

The Framework Decision does not include provisions on either **Member State liability for damage caused to individuals** or rules on compensation²⁹ in cases where unjustified damage results from EAW proceedings (for example, for

²⁷ COM(2011)327.

²⁸ European Parliament resolution of 15 December 2011 on detention conditions in the EU – Texts adopted, P7_TA(2011)0585.

²⁹ See A. Weyembergh, 'Judicial control in cooperation in criminal matters: the evolution from traditional judicial cooperation to mutual recognition', in K. Ligeti (ed.), *The Future of Prosecution in Europe*, vol. 1, Oxford: Hart Publishing, 2012.

unjustified detention for the purpose of executing an EAW). Reasons may exist to explain these unjustified detentions, such as obvious mistakes made by the issuing or executing Member State, or mistaken identity (for instance in the wake of identity card theft), etc. In such cases, it is reasonable to assume that the person should be entitled to receive compensation for the damage suffered.

Figure 9 - Examples of damage caused to individuals³⁰

Recently, a Spanish citizen, Óscar Sánchez, was sentenced to 14 years' imprisonment for being a collaborator of the Camorra (the Neapolitan mafia), as a result of the real criminal having assumed his identity. In a case like this, one may argue that Mr Sánchez should have received compensation for the damage suffered.

José Vicente Piera, for example, received 85,000 euro in compensation for having spent 248 days in prison due to a case of mistaken identity.

The risk of being deprived of compensation is not purely theoretical. When questioned by a member of the Belgian Parliament on whether compensation would be paid in the Praczijsk case, the then Belgian Minister of Justice declared that the Belgian authorities was not obliged to pay any compensation, since they had not committed any mistake but had merely satisfied their duty of mutual trust.

Currently the right to compensation is limited by: a) the huge variations in compensation mechanisms; b) the absence of EU rules to ensure compensation in such cases; and c) the absence of EU rules on the division of liability between the issuing and executing Member State. Ideally, a detailed EU measure would ensure compensation and would settle possible disputes over liability between the issuing and executing Member State. An EU action in this context could serve to limit to a certain extent the adverse consequences for the person who was subject (for instance) to unjustified detention. In a common area based on mutual trust a reinforced judicial cooperation should not be detrimental to individuals' fundamental rights. An EU legislative measure would ideally be applicable to all mutual recognition instruments; as if other mutual recognition instruments apply unjustified damage can result.

Finally, the important differences in terms of criminal law, procedures and culture among Member States that persons subject to an EAW have to face must be considered. The situation can be aggravated by the fact that lawyers often lack knowledge of EU cooperation mechanisms, especially in cases involving the EAW.

³⁰ For more details on José Vicente Piera case see:
http://elpais.com/elpais/2013/08/14/inenglish/1376484100_663219.html

The **lack of an effective EU defence system in transnational cases** accompanied by the **lack of appropriate training** for defence lawyers need to be pointed out. Insufficient training and expertise of defence lawyers in EAW cases may be considered a further obstacle. Trans-national cases are more complex than purely domestic cases, as they require understanding 'not only [of] the executing Member State legal system but often knowledge of the issuing Member State as well, [as well as the application of a] comparative analysis of both systems'³¹.

However as most Member States have a decentralised system for execution of EAWs, most of the defence lawyers likely to be confronted with an EAW will not have a specialisation in this particular area of law. As a consequence, persons subject to EAWs might receive legal assistance of poor quality. In that context, dedicated training for defence lawyers especially dealing with EAW procedures might be envisaged.

In that context, the European Parliament Resolution of 27 February 2014 on the review of the EAW calls on "*Member States and the Commission to cooperate in strengthening contact networks of judges, prosecutors and criminal defence lawyers to facilitate effective and well-informed EAW proceedings, and to offer relevant training at national and Union level to judicial and legal practitioners in inter alia languages, the proper use of the EAW and the combined use of the different mutual recognition instruments; calls on the Commission to draft a practical Union handbook designed for defence lawyers acting in EAW proceedings and easily accessible throughout the Union taking into account the existing work of the European Criminal Bar Association on this matter and complemented by national handbooks*".

A recent Impact Assessment (IA)³² has looked at this option assuming that the costs should be borne by the national administration. The cost of training was calculated on the basis of a 3-day course at a standard rate of 100 euro per hour. The same IA assumes (taking the example of Germany, as there are no official data on how many lawyers practise criminal defence work at EU level) that training should be made available to 10 per cent of practising lawyers³³.

³¹ Justice, European Arrest Warrants: ensuring an effective defence, 2012, p. 11. See also P. Albers et al., 'Towards a common evaluation framework to assess mutual trust in the field of EU judicial cooperation in criminal matters', March 2013, p. 39.

³² SWD(2013)0476, accompanying the proposal for measures on legal aid for suspects or accused persons in criminal proceedings COM(2013)0824, p. 126.

³³ For a more details, see the Initial appraisal of European Commission Impact Assessment SWD(2013)476 on Legal aid for suspects or accused persons in criminal proceedings available at: <http://www.europarl.europa.eu/activities/committees/studies.html>

The initial cost of setting up such a system would therefore be a maximum of 23 million euro. This estimate does not, however, consider the fact that certain Member States might already have such a training scheme in place, and would therefore not have to face additional costs.

Figure 10 - Synoptic view of existing problems (non-exhaustive list)

Problems arising from the Framework Decision or the EAW mechanism itself

- Absence of an explicit ground for refusal based on infringement or risk of infringement of fundamental rights;
- Silence on legal remedies;
- Various SIS-related problems;
- Difficulties relating to multiple requests;
- Absence of precision regarding the transmission of a translated EAW;
- Ambiguity concerning additional information that may be requested by the executing authorities;
- Failure to include a clause on accessory surrender.

Problems arising from the incompleteness and/or imbalances of the EU Area of Criminal Justice

- Issuance of EAWs in cases which are not trial-ready;
- Disproportionate use of EAWs;
- Absence of a compensation mechanism at EU level in the event of unjustified damage resulting from EAW proceedings;
- Insufficient consideration of defendants' interests and resulting imbalances between prosecution and defence;
- Over-use of detention;
- Poor defence system in cross-border cases.

To conclude, there is a general agreement on the nature and impact of the problems identified; the real challenge consists in addressing them in an effective way so as to enhance the coherence of the EU area of criminal justice.

The impact of an EAW on individuals' lives

As it has been outlined above, the advantages of the EAW instrument are generally acknowledged. Today it is much quicker and easier to bring suspects to justice.

The introduction of the EAW has not only improved extradition times, it has also removed the executive from the process and dealt with the earlier problem of several countries not surrendering their own nationals. There is no doubt that the EAW has been extremely effective; as the data quoted earlier demonstrate, extradition times in the EU have fallen from around a year to 48 days – far less

where the suspect consents. This represents a step-change in the efficiency and effectiveness of justice systems within the EU.

By facilitating the process of justice, the EAW helps ensure that the victims of crime see justice done on a more reliable basis. It has indeed provided a mechanism to ensure that open European borders are not exploited by those seeking to avoid justice.

Figure 11 - The case 'for' the EAW: some examples

- The value of the EAW is often illustrated by recalling the rapid extradition from Italy, in September 2005, of a suspect (**Hussain Osman**) wanted in connection with the attempted bombings in London of 21 July of that year. He was subsequently sentenced to a minimum 40-year jail term.
- **Jason McKay** was convicted in 2012 for the manslaughter of his girlfriend Michelle Creed. He initially went on the run to Poland before handing himself in at a Warsaw police station. He was extradited back to the United Kingdom and put before a court within four weeks of being removed from Poland.
- Earlier in 2013, one of the United Kingdom's most wanted men, **Mark Lilley**, was arrested and extradited from Spain. He was the 51st fugitive arrested as part of the National Crime Agency's Operation Captura, targeting United Kingdom suspects believed to be hiding in Spain.
- These examples clearly contrast with the extradition under the previous arrangements of the Algerian national **Rachid Ramda**. Ramda, based in the United Kingdom, was wanted by the French authorities for his role in the 1995 Paris metro bombings; his return took 10 years to agree.

Nevertheless, even the most efficient instrument should not be implemented at the expense of fundamental rights. While widely regarded as a successful innovation, there have been problems with some aspects of the EAW which can harshly affect individuals and their families. The following may stand as examples³⁴:

- following extradition people are spending unacceptable periods of time in pre-trial detention. As foreigners are regarded as flight risks, bail is often refused and pre-trial detention, even for minor crimes, can last for years, in prison conditions which are in some cases degrading;
- an individual can face extradition even where there is clear evidence that he or she is the victim of mistaken identity;

³⁴ Data source: <http://www.fairtrials.net/justice-in-europe/the-european-arrest-warrant/>

- once extradited, people are standing trial under legal systems they are not familiar with, and may not enjoy sufficient protection of their defence rights: the right to a fair trial is thus put in jeopardy;
- individuals often receive poor legal advice simply because legal practitioners are not familiar with EAW procedures.

Figure 12 - The case 'against' the EAW: some examples³⁵

- **Edmond Arapi** was wanted for a crime he could not have committed. British courts ordered his extradition to Italy to serve sixteen years for a murder in a city he had never visited and which took place on a day when he was at work in the United Kingdom. Italy only dropped the extradition demand after a high-profile campaign. By this time he had already spent weeks in custody, separated from his family.
- **Patrick Connor** (not his real name) was extradited to Spain and held on remand in a maximum security prison in Madrid. When he was 18, he went on holiday to Spain with two friends. While there, all three were arrested in connection with counterfeit euros. Patrick had no counterfeit euros on him but the police found 100 euro in two notes of 50 euro in their rented apartment. They were brought to court and told that they were free to leave. Patrick returned to the United Kingdom and heard no more about the matter until four years later, when officers from the Serious Organised Crime Agency arrested him on an EAW.
- **Andrew Symeou** was tried and failed to resist extradition to Greece on Article 3 grounds. After extradition, he spent a harrowing 11 months on remand in custody in Greece. This student, with no previous criminal record, who still lived with his parents, spent his 21st birthday in a notorious and dangerous prison, Krydallos.
- **Michael Turner** was extradited to Hungary even though no decision had yet been made to prosecute him. This improper use of the EAW subjected Mr Turner to four unnecessary months in prison in extremely harsh conditions.

Socio-economic costs of abuse and misuse of the EAW

The weaknesses of the EAW not only undermine the credibility of the process, but are also costly to the individuals concerned, their families and the taxpayer in general.

Assessing the true costs of the EAW requires considering the full impacts both social and economic, as well as short- and long-term, on the **person concerned** and but also on his or her **family and community**. This calculation is both

³⁵ Data source: <http://www.fairtrials.net/justice-in-europe/the-european-arrest-warrant/>

difficult to make and unpalatable to some Member States. Moreover, reliable cost analyses are difficult to find.

Hence, while this section explores the factors that must be considered in assessing the socio-economic impact of the EAW, it generally does not seek to assign a monetary figure to each type of impact. In order to provide the most complete picture possible, the **financial costs** of the EAW (the burden it puts on national police forces and resources) and the **human costs** (the miscarriages of justice that have occurred) will be considered.

Who bears these costs?

There are a number of ways in which these costs can be categorised. One way is by who bears them – individuals and those at risk of becoming subject to an EAW, criminal justice systems, social and/or health services, and MS at large.

Figure 13 - Summary of factors to be considered in estimates

For individuals

- Lost working days, with the employment and income lost affecting the person and his/her family;
- Costs of legal advice;
- Emotional costs with possible subsequent costs to health and social services;
- Costs of miscarriages of justice leading to pain, suffering and reduced quality of life.

For Member States

- Court costs;
- Police costs;
- Translation/interpretation and travel costs (including cost of flights for surrender and accompanying police officers);
- Operating detention facilities: costs relating to prison guards and administrators; warehousing detainees (food, clothing, beds, healthcare, etc).

For individuals

The previous section has mentioned the most important shortcomings of the EAW and highlighted cases of injustice caused by a lack of basic safeguards in the system, coupled with unacceptably low fair trial and pre-trial detention standards across the EU. It follows that the economic and human impact of the EAW is considerable not only for the person concerned but also for his/her relatives. The tangible economic costs which directly affect the individual and his/her family revolve around **loss of productivity for paid workdays** and, in certain cases, also costly lifestyle changes to regain a sense of security. Ultimately, these costs are also borne by employers and the economy as a whole.

The **cost of legal advice** and the **time** that the person concerned **requires to manage and settle an EAW** push costs much higher.

In case of a miscarriage of justice, in addition to economic costs, there are **important intangible costs** for those concerned such as **pain, suffering, and reduced quality of life**. The cost of the human and emotional suffering represents an important part of the total cost. Again, not only does the person concerned bear such costs but the subsequent **impact on health services** can be high in terms of cost and capacity. This burden can relate to short-term and long-term physical care, through to emotional and psychological counselling. It is worth mentioning that many MS foresee compensation for people who are wrongly convicted. Receiving a proper amount in compensation does not restore the missing years and cannot undo the original damage, but it certainly helps.

The rare available estimates often do not take account of the **emotional costs** and the painful human impact. Some claim that the surrendered person's human rights to 'family life' are being breached by being separated from spouses or children in the country of origin to be sent elsewhere for trial. Indeed, a person kept in custody in a foreign state may be cut off from family and social ties.

As stressed above, the sensitive area of detention conditions is an important issue as it is closely linked to the practical implementation of the EAW. Indeed, owing to the flight risk, non-resident suspects are often remanded in custody while residents benefit from alternative measures. Keeping persons in pre-trial detention also has important cost implications for the public authorities involved. Moreover, individuals in pre-trial detention are not only at risk of losing their employment at the time of detention, but also risk long-term unemployment or underemployment after release.

The excessive or unnecessary use and length of pre-trial detention also contribute to the phenomenon of prison overcrowding, which continues to blight penitentiary systems across Europe and seriously undermines improvements in conditions of detention.

In addition, the education of children is often disrupted when a parent is detained. Children have to take on new roles, including providing domestic, emotional, or financial support for other family members. Researchers often link the imprisonment of parents to negative outcomes for their children, including increased propensity to violence and other forms of anti-social behaviour, increased likelihood of suffering anxiety and depression, and decreased school

attendance. The negative impacts harm not only the family but the community as whole, depriving it of parents, income-earners, teachers, role models, etc.

Figure 14 - Cost of pre-trial detention in some Member States³⁶

Country	Cost per person per year (€)	Cost per person per month (€)
Czech Republic	10,537	866
Germany	24,000	2,000
Finland	42,000	3,500
Ireland	76,128	6,344
Italy	32,400	2,670
Netherlands	69,000	5,750
Latvia	3,168	264
Lithuania	3,984	332
Sweden	72,270	6,023
UK	36,473	3,039
Average	36,996	3,079

Finally, the indirect impact on communities can include the phenomenon of communicable diseases contracted in poor detention centres, which are spread to the community when the person is released. The problems surrounding pre-trial detention in the Member States are extensive, and certainly require action beyond a possible reform of the EAW.

For Member States

The EAW represents a cost not only for the individual concerned but also for EU Member States. Overall, the socio-economic impact for each MS dealing with problematic, trivial or erroneous EAWs means increased expenditure (direct costs), reduced revenue (indirect costs), and fewer resources for other activities (opportunity costs).

The UK Government estimates³⁷ that the unit **cost of executing an incoming EAW to the United Kingdom is approximately GBP 20 000**. This includes costs to the police, the Crown Prosecution Service, **court and legal aid costs**, as well as **detention before extradition**. If this is the case, then the estimated cost of implementing the 999 incoming EAWs in **2011 was just under GBP 20 million**

³⁶ Data source: European Commission, 2006

³⁷ Data source:

<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/615/61504.htm>

(approximately 24 million euro) . In addition, there would have been the costs of the 5,761 EAWs that did not lead to surrender but would nevertheless have incurred expense to the justice system. Although these data cannot be straightforwardly extended to the EU-28, they provide a sample of the average unit cost in a Member State. Obviously depending on the length and complexity of the procedure, the burden on the administration as well as the costs will vary.

Figure 15 - Examples of costs for Member States

Direct costs

Direct costs to the Member State can include: the costs of enforcement (wages of police officers escorting the surrendered person, cost of flights for both the surrendered person and the police officers, cost of hotel accommodation for the police officers, etc); operating detention facilities (costs relating to prison guards and administrators) and warehousing detainees (food, clothing, beds and healthcare, assuming these are provided); investigation and judicial fees linked to the EAW.

Indirect costs

These costs include the larger, indirect costs to society and the Member State of lost productivity, reduced tax payments, or diseases transmitted from prison to the community when the person is eventually released (to give just a few examples).

Opportunity Costs

All EU governments have limited resources, especially in the current economic downturn, and all policy decisions have costs. Every euro a government spends on an unnecessary EAW is a euro that cannot be spent on any other action. Similarly, money spent on legal fees by the surrendered person or his/her family could also have been used differently.

Another quite similar estimation was provided by Michael Peart, Judge of the High Court of Ireland, at a meeting of experts held by the Commission in Brussels on 5 November 2009. Mr Peart recalled that the unjustified burden on public funds arises for both executing and issuing states. The latter must support all expenses which did not arise in the territory of the executing Member State (**travel costs** of the surrender of the person) while the former must bear important costs in terms of police time, court time, the cost of providing legal representation to the arrested person, plus the cost of interpreting. In the end, the average cost of enforcing an EAW to the point of surrender was estimated at **25,000 euro per case**³⁸.

³⁸ It is important to note that no official statistics on this issue have been released.

Based on a conservative approach and assuming that the unit cost of enforcing an EAW is approximately 20,000 euro, the estimated total cost of implementing the EAWs executed between 2005 and 2009 would be just over 232 million euro for the EU as a whole. The Commission's 2011 implementation report stated that, between 2005 and 2009, 54,689 EAWs were issued, of which only 11,630 were executed³⁹.

The fact that almost three-quarters (43,059) of incoming EAW have not been executed for different reasons does not mean that costs were not generated. To the contrary, they could also possibly have entailed costs such as police and judicial costs or even pre-detention costs, without reaching their objective. In that case, on the basis even of a more conservative approach and assuming generation of a minimum unit cost of 5,000 euro, the estimated total cost of abuse and/or misuse **between 2005 and 2009 would be just above 215 million euro for the EU as a whole.**

This rough estimate does not include the economic costs to individuals which have to be calculated taking into consideration, as has been stressed above, numerous elements such as lost working days, legal costs, emotional costs, etc.

The main point, however, beyond the burden in terms of administrative and economic costs generated by a disproportionate use of the EAW by certain Member States in comparison with others (just by way of example), is the significant impact on individuals' liberty and security.

Added value of the proposed recommendations

In general terms, the added value of a new or revised instrument in this field depends on the extent to which it introduces improvements to the existing legal framework (which consists of EU legislation together with national initiatives), while the magnitude of the impact in each Member State will also depend on the existing practices. It is therefore extremely difficult to identify how any new EU legal act would interact with the individual elements of the above-mentioned framework.

In considering whether an EU-level action is necessary and to what extent it adds value to the existing system, all policy options, from non-legislative to legislative measures, were assessed. For each option, potential risks, shortcomings and added value were balanced to ensure the most appropriate alternative in terms of

³⁹ COM(2011)0175 - 'On the implementation since 2007 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States'.

effectiveness and the protection of fundamental rights, with due account taken of the degree of harmonisation entailed.

In the field of criminal procedural law, the added value of the European Arrest Warrant is clear and almost self-evident for **citizens** who face a criminal justice system abroad. They would be guaranteed rights which as foreign nationals they might not otherwise have enjoyed.

For **law enforcement authorities** the advantages of a European Arrest Warrant are clearly generated by a consistent application of legal criteria, thus avoiding a haphazard approach conditioned by political considerations. Moreover, through intervention at EU level criminal procedure measures are placed under the scrutiny of EU institutions such as the Commission and the Court of Justice. In this regard, cooperation between national courts and the Court of Justice via the preliminary reference procedure is of great value in establishing legal certainty in the application of EU law.

For **Member States** the added-value lies in avoiding lengthy political controversies which would undermine the credibility of mutual recognition measures. As shown above, the EAW, as it now stands generates direct, indirect and opportunity costs to national governments, which could be avoided or at least reduced by the introduction of the measures proposed in the **European Parliament resolution of 27 February 2014 with recommendations to the Commission on the review of the European Arrest Warrant**⁴⁰.

Figure 16 - Non-exhaustive list of expected benefits of the revised EAW

- Increased confidence among EU citizens in a high level of liberty and security throughout the EU MS;
- Achievement of correct, coherent and consistent application of EU law across the Union, in particular measures affecting fundamental rights;
- Contributing to the effective application of the EAW by developing mutual trust among MS, so to increase cross-border cooperation;
- Avoiding lengthy controversies between MS and their subsequent political and economic costs;
- Preventing MS from taking disconnected and fragmented action to address the identified problems;
- Preventing criminals from taking advantage of misuse of EAW proceedings.

⁴⁰ A7-0039/2014

Conclusion

This EU Added Value Assessment concludes that the European Arrest Warrant has improved the scheme of surrender of persons between Member States and that broadly speaking it operates satisfactorily. In the ten years since it came into force the warrant has become a vital tool in the fight against crime, enabling hundreds of criminals to be brought to justice.

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.

These weaknesses have an impact on the fundamental rights of citizens and undermine the foundations of the EU in the area of criminal justice, which are based on mutual recognition and mutual trust.

Moreover, they are also costly in social and economic terms to the individuals concerned and to the Member States. This European Added Value assessment estimates that **Member States have borne the costs of the weaknesses identified, which have been estimated at around 215 million euro for the period between 2005 and 2011.**

The European Parliament resolution on the review of the European Arrest Warrant argues that if the EAW system is to operate fairly and effectively, a multi-level and integrated approach is required.

A multi-level and integrated approach would, inter alia:

- increase EU citizens' confidence in a high level of liberty and security throughout the EU Member States;
- achieve correct, coherent and consistent application of EU law across Member States;
- avoid lengthy controversies between Member States and their subsequent political and economic costs;
- prevent Member States from taking disconnected and fragmented actions;
- prevent criminals from taking advantage of the misuse of EAW proceedings; and
- reduce the costs arising from the weaknesses identified, for both individuals and Member States.

Recommendation

The European Parliament calls on the Commission to **table, within a year, legislative proposals to strengthen the coherence and effectiveness of the European Arrest Warrant** following the detailed recommendations included in the European Parliament resolution of 27 February 2014⁴¹.

The European Parliament also stresses that for both Member States and citizens the adoption and implementation of the detailed recommendations included in its report would lead to **substantial cost and time savings, and will thus be beneficial both in economic and social terms.**

⁴¹ European Parliament Resolution of 27 February 2014 with recommendations to the Commission on the review of the European Arrest Warrant, A7-0039/2014

The European Parliament firmly believes that it is crucial to ensure a streamlined process of extradition which does not infringe fundamental rights.

This European Added Value Assessment (EAVA) analyses issues arising from the European Arrest Warrant (EAW) Framework Decision and its practical implementation. It argues that although the EAW is generally recognised as a successful instrument for ensuring that criminals are brought to justice, its practical implementation has been subject to persistent criticism since its introduction.

The EAVA looks at the different problems, assesses their root causes and proposes some feasible solutions (both at national and EU level). It advocates a holistic approach that includes a number of legislative and non-legislative measures in order to ensure a fair and coherent implementation of the EAW.

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