

# Implementing the Framework Decision on the European arrest warrant

All EU Member States have transposed the 2002 Council Framework Decision on the European arrest warrant (EAW) and the surrender procedures between Member States. During the January 2021 plenary session, the European Parliament is due to debate an own-initiative report concerning its implementation.

## Background

Judicial cooperation in criminal matters has become increasingly reliant on mutual recognition instruments, with judicial authorities communicating directly with one another, rather than through political authorities. Adopted after the 9/11 terrorist attacks, the EAW was the first such instrument, and replaced [extradition](#) within the EU. An EAW issued in one Member State has to be recognised and enforced in another Member State, except in specific cases provided for in the 2002 [Framework Decision](#) (FD). In 2018, the EAW-based surrender procedure [reportedly](#) took, on average, 16 days for arrested persons who consented to their surrender to the issuing Member State and 45 for those who did not, which is considerably less time than extradition procedures.

## Practical application of the EAW

Since the FD came into force, a number of issues have emerged regarding its practical application. These include disparities in Member States' approaches to proportionality (with some national authorities issuing EAWs for minor offences), grounds for refusal not included in the FD (notably related to fundamental rights), the definition of 'judicial authority' (the problem of who is authorised to issue an EAW), and the catalogue of offences for which the double criminality check has been lifted. Many of them have been addressed in the [case law](#) of the Court of Justice of the European Union.

In 2014, the European Parliament adopted a [resolution](#) calling on the European Commission to submit legislative proposals to improve some aspects of the EAW framework, notably as regards proportionality checks and fundamental rights safeguards. Parliament reiterated this request in other [resolutions](#). The Commission has so far chosen to address the recurrent problems by other means, such as adopting legislation on common minimum standards on procedural rights and making use of infringement procedures. However, before confirmed as Justice Commissioner, Didier Reynders [vowed](#) to consider a proposal to revise the EAW. The application of the FD was subject to a peer review among Member States in the context of the [4th](#) and [9th](#) round of mutual evaluations, and the Commission has issued four reports on its implementation, the most recent [one](#) of July 2020 assessing it as 'rather satisfactory'.

## European Parliament position

On 1 December 2020, Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted an own-initiative [report](#) on the implementation of the EAW and the surrender procedures between Member States. Whilst the report makes an overall positive assessment of the EAW system, it points to some specific problems, mainly concerning proportionality, additional non-recognition grounds not set out explicitly in the FD (related to fundamental rights, such as prison conditions and independence of the judiciary), as well as coherence with other instruments regarding the rights of suspects. Accordingly, it makes a series of recommendations. Among other sources, the report relies on the [European Implementation Assessment](#) published by EPRS in June 2020.

Own-initiative report: [2019/2207\(INI\)](#); Committee responsible: LIBE; Rapporteur: Javier Zarzalejos (EPP, Spain).

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