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NOTE

from:	Spanish delegation
to:	delegations
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Subject:	Evaluation report on the fourth round of mutual evaluations: practical application of the European arrest warrant and the relevant surrender procedures between Member States
	– Follow-up to the report on Spain

**FOLLOW-UP TO THE RECOMMENDATIONS IN THE EVALUATION REPORT FOR
SPAIN ON APPLICATION OF THE EUROPEAN ARREST WARRANT**

As an issuing Member State:

Recommendation 1: That measures are put in place to ensure uniform compliance, by Spain's issuing JAs, with their statutory duty to provide the CA with copies of all EAWs issued and transmitted. (See 7.2.1.1.)

The central authority routinely reminds the various judicial authorities involved, as well as the General Council of the Judiciary, of the need to comply with that duty, with the result that there has been a significant increase in receipt of copies of EAWs issued by Spanish courts.

Recommendation 2: That consideration be given by the Spanish authorities to the preparation of a form of words/brief explanatory memorandum to expressly confirm, for the benefit of executing MSs (in particular, common law countries), that prosecution decisions have de facto been reached in respect of all EAW prosecution requests but that, before such a decision can formally be taken, the Spanish Procedural Code requires the hearing of the person. (See 7.2.1.3.)

In response to specific cases, the courts' normal practice is to explain quite clearly to the executing authority that the hearing is a legal necessity, which has not given rise to any particularly significant problems here; hence, we have not seen any need to produce such an explanatory memorandum.

Recommendation 3: That the Spanish authorities reappraise the current practice of causing all requested persons to be transported to Madrid rather than directly to the locality of the issuing JA itself. (See 7.2.1.6.)

The Spanish authorities have considered the possibility that not all wanted persons should be sent to Madrid, although considerations of practical effectiveness warrant continued use of that procedure.

As an executing Member State:

Recommendation 4: To ensure that measures are put in place so that only judicial scrutiny results in flagging or a request for further information being raised in respect of EAWs received via the International Police Cooperation Unit. (See 7.3.1.1.)

Normal practice is for the relevant international police cooperation units to proceed with flagging or a request for further information only after judicial scrutiny.

Recommendation 5: To examine the quality of linguistic provision available to requested persons and their legal advisors before the executing JA and to take such remedial action as may be required. (See 7.3.1.2.)

Realising the importance of quality of linguistic provision, the relevant authorities are considering what steps should be taken to improve it. In the first place, the Language Interpreting Office at the Ministry of Foreign Affairs and Cooperation periodically produces a list of all sworn translators and interpreters appointed by that Ministry, as the body in charge of entrance tests for the profession, showing the language(s) they are qualified to translate or interpret. Secondly, those autonomous communities vested with judicial powers contract their own translation and interpreting services out to various business organisations.

Similarly, the training courses run by the Ministry of Justice for prosecutors and court clerks and by the General Council of the Judiciary for magistrates include English and French classes, to help improve the quality of language provision.

Recommendation 6: To update the Fiche Française, ensuring that greater clarity is expressed in respect of the procedures which may be adopted in the case of EAWs concerning minors. (See 7.3.1.3.)

We are in the process of updating the Fiche Française.
