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From:	General Secretariat of the Council
To:	Delegations
Subject:	Updated Questionnaire and Compilation on the Requirements for Issuing and Executing Judicial Authorities in EAW Proceedings pursuant to the CJEU's Case-Law

Delegations will find attached a further updated compilation by Eurojust and the European Judicial Network (EJN) on the requirements for issuing and executing judicial authorities in EAW proceedings, pursuant to the case-law of the Court of Justice of the European Union.

The compilation is also available on the websites of Eurojust and EJN.

Updated Questionnaire and Compilation on the Requirements for Issuing and Executing Judicial Authorities in EAW Proceedings pursuant to the CJEU's Case-Law

Revised on 19 April 2021

Contents

Executive summary

The Court of Justice of the European Union (CJEU) interpreted in its case-law the notion of 'issuing judicial authority' under Article 6(1) of the Framework Decision on the European Arrest Warrant and the surrender procedures between the Member States (EAW FD). In 2019, the CJEU clarified in several judgments the requirements under which public prosecutors can be regarded as 'issuing judicial authority' for the purposes of the EAW FD. This case-law raised many questions regarding the legal position of public prosecutors in the Member States. Therefore, Eurojust and the European Judicial Network (EJN) worked on a questionnaire and compilation of replies from the national authorities of the Member States and Norway, with the aim of assisting practitioners with the application of the EAW FD in this field (last version, Council document no. 7182/1/20 of 6 April 2020).

In November 2020, the CJEU transposed the case-law on the 'issuing judicial authority' and the requirements developed therein in relation to public prosecutors also to the notion of 'executing judicial authority' under Article 6(2), Article 27(3)(g) and Article 27(4) EAW FD. Following this judgment and upon agreement with the Council, Eurojust and the EJN (in close cooperation with the Commission) merged the information on 'issuing judicial authorities' (Council document no. 7182/1/20) with the information on 'executing judicial authorities' collected by the Council and the Commission (Council document no. 13820/20) into a single updated compilation (Council doc no. 5607/1/21).

The compilation includes a brief summary of the most relevant judgments that the CJEU delivered on this issue in the period between May 2019 and March 2021. It compiles the replies received from the EU Member States (in relation to the application of the EAW FD), but also from Iceland and Norway (in relation to the relevant corresponding provisions of the Surrender Agreement of the EU with Iceland and Norway), and the United Kingdom (in relation to the relevant corresponding provisions of the Trade and Cooperation Agreement). The questionnaire addresses the following issues:

- Which are the issuing and executing judicial authorities under the EAW FD and whether public prosecutors can issue/execute an EAW;
- What authority ultimately takes the decision to issue/execute an EAW (including relevant information on ex-officio review and/or endorsement by a court);
- Whether national law guarantees the independence of the public prosecutors from the executive;
- Whether, in those countries where a public prosecutor can issue/execute an EAW, such a decision can be subject to court proceedings which meet in full the requirements inherent in effective judicial protection;
- What legal and/or practical measures have been taken to address the issue in the countries affected by the CJEU's judgments;
- Any other additional information, including recent developments in national law and/or certificates issued to ensure compliance with the requirements set by the CJEU's case-law.

The current version of this compilation has been updated with a reference to further developments in the CJEU's case-law in this area (Case C-648/20 PPU *PI*) and also includes a few new or revised contributions that have been received by 15 April 2021.

1. Background

In recent years, the Court of Justice of the European Union (CJEU) clarified in a number of judgments the concept of 'issuing judicial authority' (Article 6(1) EAW FD)[1] and the concept of 'European arrest warrant' (Article 1(1) EAW FD).[2] With specific reference to public prosecutors, in several judgments of 2019 the CJEU underlined the importance of their independence when issuing EAWs and clarified the requirements of effective judicial protection. These judgments raised many questions amongst practitioners on consequences concerning the legal position of public prosecutors in the Member States. Against this background, Eurojust prepared in 2019 a questionnaire and compiled the relevant information from the Member States and Norway (Council doc. 10016/19). Eurojust and EJN revised this compilation a few times when updated information had become available (last update Council doc. 7182/1/20).

On 24 November 2020, the CJEU transposed its case-law on the concept of 'issuing judicial authority' in relation to public prosecutors to the concept of 'executing judicial authority' within the meaning of Articles 6(2), 27(3)(g) and 27(4) EAW FD.[3] Following this judgment, the German Presidency of the Council and the Commission collected information on the situation within all Member States relating to the conditions set out by the CJEU (Council doc. 13820/20).

In December 2020, the German Presidency, in liaison with Eurojust, the EJN, the Commission, the Portuguese incoming Presidency and the General Secretariat of the Council, decided to transfer the responsibility to collect the relevant information to Eurojust and the EJN. It was agreed that Eurojust and the EJN, in liaison with the Commission services, will update the information in the table of Council doc. 13820/20 and that they may also decide to pose any additional questions concerning the competent authorities, if and when appropriate.

Following this agreement, Eurojust and the EJN, in consultation with the Commission, merged the information available in the Joint Eurojust/EJN compilation on the issuing judicial authority (Council doc. 7182/1/20) with the information included in the table prepared by the Presidency and the Commission on the executing judicial authority (Council doc. 13820/20). This has resulted in an updated questionnaire (see below III) and an updated compilation (see below IV). Eurojust and the EJN decided, in close consultation with the Commission, to adhere -as much as possible- to the already existing questions and the already available information.[4] The only new addition in the updated questionnaire is that national authorities are invited to specify, if applicable, in relation to which aspects of the executing phase public prosecutors can take decisions in their country. Furthermore, the summary of the CJEU's case-law has been updated to include reference to the CJEU's recent judgment on the concept of 'executing judicial authority' (see below II). Finally, the layout of the compilation has been modified in order to improve the readability of the document. The questionnaire is sent out to the EU Member States (in relation to the application of the EAW FD), but also to Norway, Iceland and United Kingdom (in view of the application of the relevant corresponding provisions of the respective Agreements concluded by the European Union with these countries in relation to surrender).[5]

[1] Case C-452/16 PPU *Poltorak;* Case C-477/16 PPU *Kovalkovas*, Joined Cases C-508/18 *OG* and C-82/19 PPU *PI*; Case C-509/18 *PF*; Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*; Case C-625/19 PPU *XD*; Case C-627/19 PPU *ZB.*

[2] Case C-452/16 PPU *Poltorak;* Case C-477/16 PPU *Kovalkovas*; Case C-489/19 *NJ*.

[3] Case C-510/19 *AZ.*

[4] The information of column 2 (notification Art. 7(2) central authority) and column 6 (notifications Art. 27(1) consent) of Council doc. 13341/20 has not been withheld in the current Compilation, but is easily accessible at the EJN website: here

[5] Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway – Declarations, Official Journal, L-292, 21.10.2006, p. 2-19 (hereinafter: EU-IS-NO Agreement); Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, Official Journal, L-444, 31.12.2020, p. 14–1462, particularly Part Three, Title VII 'Surrender'(hereinafter: TCA).

In March 2021, the CJEU delivered a new judgment clarifying the requirements of effective judicial protection where a public prosecutor issues both the EAW and the national judicial decision on which it is based.[6] Therefore, the present revision of the compilation updates the summary of the CJEU's case-law to include reference to this judgment and also includes new information collected from the Member State directly affected by this decision and also further information received from other countries.

2. Summary of the CJEU's case-law

2.1. Overview of judgments on public prosecutors as issuing/executing authorities

According to the CJEU's case-law, the concepts of 'issuing judicial authority' and 'executing judicial authority' under the EAW FD are autonomous concepts of EU law.[7] They are not restricted to designating judges or courts, but can include also public prosecutors, subject to certain conditions.

Over the past years, the CJEU has interpreted on several occasions the concepts of 'issuing judicial authority' (Article 6(1) EAW FD), executing judicial authority (Articles 6(3) EAW FD and 27 EAW FD) and 'European arrest warrant' (Article 1(1) EAW FD). This document focuses on the judgments in which the CJEU clarified under which conditions public prosecutors can be considered as issuing or executing judicial authority and whether EAWs issued/executed by them can be considered as EAWs within the meaning of the EAW FD.[8] Some potentially relevant cases are still pending.[9]

This overview does not include the judgments in which the CJEU interpreted:

- the terms 'issuing judicial authority' and 'EAW' in relation to EAWs issued by a police service[10] or a Ministry of Justice.[11]
- Article 6(1) EAW FD in relation to EAWs issued by a court if there is evidence of systemic or generalised deficiencies concerning the independence of the judiciary in the Member State concerned.[12]

When this document refers to "European Arrest Warrant" it also implies reference to "Arrest Warrant" as mentioned in the respective Agreements.

[6] Case C-648/20 PPU *PI*.

[7] For an overview of summaries of all judgments related to Article 6(1) EAW FD , see Eurojust's overview 'Case law by the Court of Justice of the European Union on the European Arrest Warrant' (revised, 2020), p. 11 ff, retrievable here.

[8] This case-law should **not** be transposed to Directive 2014/41/EU regarding the European Investigation Order in criminal matters (EIO DIR). In relation to the latter instrument, the CJEU ruled on 8 December 2020 in Case C-584/19 *Staatsanwaltschaft Wien (Ordres de virement falsifiés)* that Article 1(1) and Article 2(c) EIO DIR must be interpreted as meaning that the concepts of 'judicial authority' and 'issuing authority', within the meaning of those provisions, include the public prosecutor of a Member State or, more generally, the public prosecutor's office of a Member State, regardless of any relationship of legal subordination that might exist between that public prosecutor or public prosecutor's office and the executive of that Member State and of the exposure of that public prosecutor or public prosecutor's office to the risk of being directly or indirectly subject to orders or individual instructions from the executive when adopting a European investigation order'.

[9] See, for instance: Case C-78/20; Case C-206/20.

[10] Judgment of 10 November 2016 in Case C-452/16 PPU *Poltorak* (retrievable here). The CJEU ruled that the term 'judicial authority', within the meaning of Article 6(1) EAW FD must be interpreted as meaning that a police service, such as the Rikspolisstyrelsen (National Police Board, Sweden) is not covered by the term 'issuing judicial authority', within the meaning of that provision. The CJEU also held that the EAW issued by that police service with a view to executing a judgment imposing a custodial sentence cannot be regarded as a 'judicial decision', within the meaning of Article 1(1) EAW FD.

[11] Judgment of 10 November 2016 in Case C-477/16 PPU *Kovalkovas* (retrievable here). The CJEU ruled that the term 'judicial authority', referred to in Article 6(1) must be interpreted as meaning that it precludes an organ of the executive, such as the Ministry of Justice of the Republic of Lithuania, from being designated as an 'issuing judicial authority', within the meaning of that provision. The CJEU also held that the EAW issued by it with a view to executing a judgment imposing a custodial sentence cannot be regarded as a 'judicial decision', within the meaning of Article 1(1) EAW FD.

[12] Judgment of 17 December 2020 in Case C-354/20 *Openbaar Ministerie (Indépendance de l'autorité judiciaire d'émission)*(retrievable here). The CJEU ruled that Article 6(1) and Article 1(3) EWAW FD, must be interpreted as meaning

- The notion of 'national arrest warrant' under Article 8(1)(c) EAW FD.[13]

The CJEU's conclusions and the links to the relevant judgments are included below.

- **Judgment of 27 May 2019 in Joined Cases C-508/18 *OG* and C-82/19 PPU *PI*** (retrievable here). In relation to an EAW for the purpose of prosecution, issued by a German public prosecutor's office, the CJEU ruled that the concept of 'issuing judicial authority' of Article 6(1) EAW FD must be interpreted as not including public prosecutors' offices of a Member State which are exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as a Minister for Justice, in connection with the adoption of a decision to issue an EAW.

- **Judgment of 27 May 2019 in Case C-509/18 *PF*** (retrievable here). In relation to an EAW for the purpose of prosecution, issued by a Lithuanian Prosecutor General's Office, the CJEU ruled that the concept of 'issuing judicial authority' of Article 6(1) EAW FD must be interpreted as including the Prosecutor General of a Member State who, whilst institutionally independent from the judiciary, is responsible for the conduct of criminal prosecutions and whose legal position, in that Member State, affords him a guarantee of independence from the executive in connection with the issuing of an EAW**.**

- **Judgment of 9 October 2019 in Case C-489/19 *NJ*** (retrievable here). In relation to an EAW for the purpose of prosecution, issued by an Austrian public prosecutor's office and endorsed by an Austrian court, the CJEU ruled that the concept of 'European arrest warrant' referred to in Article 1(1) EAW FD, must be interpreted as meaning that EAWs issued by the public prosecutor's offices of a Member State fall within that concept, despite the fact that those public prosecutor's offices are exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as a Minister for Justice, in the context of the issue of those arrest warrants, provided that those arrest warrants are subject, in order to be transmitted by those public prosecutor's offices, to endorsement by a court which reviews independently and objectively, having access to the entire criminal file to which any specific directions or instructions from the executive are added, the conditions of issue and the proportionality of those arrest warrants, thus adopting an autonomous decision which gives them their final form.

- **Judgment of 12 December 2019 in Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*** (retrievable here). In relation to an EAW for the purpose of prosecution, issued by a French public prosecutors' office the CJEU ruled that:

    - Article 6(1) EAW FD must be interpreted as meaning that the public prosecutors of a Member State, who are responsible for conducting prosecutions and act under the

that, where the executing judicial authority, which is called upon to decide whether a person in respect of whom a EAW has been issued is to be surrendered, has evidence of systemic or generalised deficiencies concerning the independence of the judiciary in the Member State that issues that arrest warrant which existed at the time of issue of that warrant or which arose after that issue, that authority cannot deny the status of 'issuing judicial authority' to the court which issued that arrest warrant and cannot presume that there are substantial grounds for believing that that person will, if he or she is surrendered to that Member State, run a real risk of breach of his or her fundamental right to a fair trial, guaranteed by the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union, without carrying out a specific and precise verification which takes account of, inter alia, his or her personal situation, the nature of the offence in question and the factual context in which that warrant was issued, such as statements by public authorities which are liable to interfere with how an individual case is handled.

[13] Judgment of 13 January 2021 in Case C-414/20 PPU *MM* (retrievable here). The Court ruled that the notion of '[national] arrest warrant or any other enforceable judicial decision having the same effect' under Article 8(1)(c) EAW FD refers to a national measure which, even if it is not referred to as a 'national arrest warrant', allows for the research and arrest of a person with a view to his or her appearance before a court for the purpose of conducting criminal proceedings. The CJEU also ruled that it is for the national court in the issuing Member State to determine, in the light of national law, what consequences the absence of a valid national arrest warrant may have on the decision to keep the surrendered person in provisional detention.

direction and supervision of their hierarchical superiors are covered by the term 'issuing judicial authority', within the meaning of that provision, provided that their status affords them a guarantee of independence, in particular in relation to the executive, in connection with the issuing of a EAW.

  - The EAW FD must be interpreted as meaning that the requirements inherent in effective judicial protection which must be afforded any person in respect of whom a European arrest warrant is issued in connection with criminal proceedings are fulfilled if, according to the law of the issuing Member State, the conditions for issuing such a warrant, and in particular its proportionality, are subject to judicial review in that Member State.

- **Judgment of 12 December 2019 in Case C-625/19 PPU *XD*** (retrievable here). In relation to an EAW for the purpose of prosecution issued by a Swedish public prosecutor's office, the CJEU ruled that the EAW FD must be interpreted as meaning that the requirements inherent in effective judicial protection from which a person in respect of whom a EAW is issued for the purpose of criminal proceedings must benefit are fulfilled if, according to the law of the issuing Member State, the conditions for issuing such a warrant, and in particular its proportionality, are subject to judicial review in that Member State.
- **Judgment of 12 December 2019 in Case C-627/19 PPU *ZB*** (retrievable here). In relation to an EAW for the purpose of the execution of a custodial sentence, issued by a Belgian public prosecutor's office, the CJEU ruled that the EAW FD must be interpreted as meaning that it does not preclude legislation of a Member State which, although it confers the competence to issue an EAW for the purposes of executing a sentence on an authority which, whilst participating in the administration of justice in that Member State, is not itself a court, does not provide for the existence of a separate judicial remedy against the decision of that authority to issue such a EAW.
- **Judgment of 10 March 2021 in Case C-648/20 PPU *PI*** (retrievable here). In relation to an EAW for the purpose of prosecution, issued by a Bulgarian public prosecutor on the basis of a national arrest warrant also adopted by the public prosecutor, the CJEU ruled that the requirements of effective judicial protection are not satisfied where both the EAW and the judicial decision on which that warrant is based are issued by a public prosecutor – who may be classified as an 'issuing judicial authority' within the meaning of Article 6(1)– but cannot be reviewed by a court in the issuing Member State prior to the surrender of the requested person by the executing Member State.

In 2020, the CJEU interpreted the concept of 'executing judicial authority' within the meaning of Articles 6(2), 27(3) and 27(4) EAW FD and considered that its abovementioned case-law on the concept of 'issuing judicial authority' could be transposed to the concept of 'executing judicial authority'. The CJEU's conclusions and the links to the judgments are included below:

- **Judgment of 24 November 2020 in Case C-510/19 PPU *AZ*** (retrievable here). In relation to an EAW for the purpose of prosecution executed by a Dutch public prosecutor's office, the CJEU ruled that:

  - The concept of 'executing judicial authority' within the meaning of Article 6(2) EAW FD constitutes an autonomous concept of EU law which must be interpreted to the effect that it covers the authorities of a Member State which, without necessarily being judges or courts, participate in the administration of criminal justice in that Member State, acting independently in the exercise of the responsibilities inherent in the execution of an EAW and which exercise their responsibilities under a procedure which complies with the requirements inherent in effective judicial protection.

  - Articles 6(2), 27(3)(g) and 27(4) EAW FD must be interpreted as meaning that the public prosecutor of a Member State who, although he or she participates in the

administration of justice, may receive in exercising his or her decision-making power an instruction in a specific case from the executive, does not constitute an 'executing judicial authority' within the meaning of those provisions.

2.2. Requirements for the purpose of issuing/executing EAWs by public prosecutors

The CJEU clarified three requirements that public prosecutors must fulfil if they act as issuing or executing judicial authority in the context of EAW proceedings:

- **Participate in the administration of criminal justice.** E.g., the authorities are competent, in criminal proceedings, to prosecute a person suspected of having committed a criminal offence so that that person may be brought before a court; and/or they are in charge of the organisation and direction of criminal investigations; and/or have power to issue an indictment.[14]

- **Act independently in the exercise of the responsibilities inherent in the issuing/execution of an EAW, in particular in relation to the executive.** The prosecutor's legal position safeguards the objectivity of the public prosecutor's role. He/she is required to take into account all incriminatory and exculpatory evidence. There are statutory rules and an institutional framework capable of guaranteeing that the public prosecutor's office is not exposed, when adopting a decision to issue/execute such an arrest warrant, to any risk of being subject, inter alia, to an instruction in a specific case from the executive. [15] The independence is not called into question by the fact that a public prosecutor's office is responsible for conducting criminal prosecutions,[16] nor by the fact that the Minister for Justice may issue them with general criminal justice policy instructions,[17] nor by the fact that they are under the direction and control of their hierarchical superiors, themselves part of the public prosecutor's office.[18]

- **Exercise their responsibilities under a procedure which complies with the requirements inherent in effective judicial protection**.[19] The decision to issue/execute the EAW must be capable of being the subject, in the issuing Member State, of court proceedings, which meet in full the requirements inherent in effective judicial protection.[20] It is for the Member States to ensure that their legal orders effectively safeguard the required level of judicial protection by means of the procedural rules that they implement.[21] These rules may vary from one Member

[14] Joined Cases C-508/18 *OG* and C-82/19 PPU *PI*, para 50; Case C-509/18 *PF*, para 29; Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*, para 53; Case C-510/19 *AZ*, para 54.

[15] Joined Cases C-508/18 *OG* and C-82/19 PPU *PI*, paras 73-74; Case C-509/18 *PF*, paras 51-52 and 55 (with reference to relevant provisions of the Lithuanian Constitution and the Lithuanian laws on the public prosecutor's office that reflect this independence); Case C-489/19 *NJ,* para 40; Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*, paras 54-55 (with reference to the relevant provisions of the French Constitution and the French Code of Criminal Procedure that reflect this independence); Case C-510/19 *AZ*, para 54.

[16] Case C-509/18 *PF*, para 57; Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*, para 57.

[17] Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*, para 54.

[18] Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*, para 56.

[19] In relation to this third requirement, the CJEU underlined that the need for 'effective judicial protection' is not a condition for classification of an authority as an issuing/executing judicial authority within the meaning of Article 6(1) or Article 6(2) EAW FD, see: Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*, para 48; Case C-625/19 PPU *XD*, paras 30; Case C-510/19 *AZ*, para 46.

[20] Joined Cases C-508/18 *OG* and C-82/19 PPU *PI*, para 75; Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC,* para 62; Case C-510/19 *AZ*, para 54.

[21] In this respect, the CJEU clarified that where no judicial remedy is available in the issuing Member State to review the conditions under which an EAW is issued by an authority that, although participating in the administration of justice, is not in itself a court, the EAW FD, read in the light of the right to effective judicial protection, enshrined in Article 47 of the Charter, means that a court, which is called upon to decide on the lawfulness of the provisional detention of a person surrendered in execution of an EAW, must declare its jurisdiction to review the conditions under which that warrant was issued where an action has been brought before it to challenge its validity in light of EU law, see Case C-414/20 PPU, *MM*.

State to another. Introducing a separate right of appeal against a public prosecutor's decision to issue/execute an EAW is a possibility, but Member States can also opt for other mechanisms.[22] For instance, national procedural rules whereby the court that adopted the national arrest warrant reviews the decision of the public prosecutor's office to issue an EAW before or practically at the same time as that decision is adopted, or subsequently, including after the requested person's surrender, would meet the required threshold.[23] The CJEU also clarifies that in relation to EAWs issued for the purpose of executing a custodial sentence, the judicial review is carried out by the enforceable judgment on which that arrest warrant is based.[24] Finally, the CJEU clarified that if both the EAW and the national arrest warrant are issued by a public prosecutor, judicial review of at least one of them must be afforded before surrender in the issuing State.[25]

2.3. Scope of the CJEU's case law

It is important to note that the abovementioned requirements apply in the context of the EAW FD, but not necessarily in all cases where a public prosecutor is involved in the issuing and/or executing phase of an EAW. More specifically, the following elements should be taken into account:

- **The entity that ultimately takes the decision to issue/execute an EAW**. The abovementioned requirements only apply in cases where the public prosecutor is the entity that ultimately decides on issuing/executing EAWs. By contrast, an EAW issued by a public prosecutor, which does not meet the requirement of independence, can still be valid if the arrest warrant is subject to ex officio review/endorsement by a court.[26]
- **Relevant provisions of the EAW FD.** So far, the CJEU has imposed the abovementioned requirements only in relation to the issuing of an EAW (Article 6(1) EAW), the execution of an EAW (Article 6(2) EAW FD) and the disapplication of the rule of speciality (Articles 27(3)(g) and 27(4) EAW FD).
- **Potentially relevant provisions of the EAW FD**. As the EAW FD also mentions the concept 'issuing judicial authority' and/or 'executing judicial authority' in several other provisions, the latter provisions could potentially, but not necessarily, also be affected by the CJEU's case-law in the future, in particular:
  - Keeping the requested person in detention (Article 12 EAW FD);
  - Execution of an EAW when the requested person consents to the surrender (Article 13 EAW FD)
  - Execution of an EAW when the requested person does not consent to the surrender (Article 14 EAW FD)
  - Requests for additional information (Article 15 EAW FD)[27]
  - Decision on competing EAWs (Article 16(1) EAW FD)
  - Agree that the requested person should be heard or agree to the temporary transfer of the requested person (Article 18 EAW FD)

[22] Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*, paras 64-66; Case C-625/19 PPU *XD*, paras 43-45; Case C-510/19 *AZ*, paras 54-55. However, according to Opinion of AG De La Tour in Case C-648/20 PPU, *Svishtov Regional Prosecutor's Office*, the requirements inherent in effective judicial protection are not satisfied where, under the law of the issuing Member State, both the EAW and the national judicial decision on which it is based, first, are issued by an authority that, whilst participating in the administration of criminal justice in that Member State, is not itself a court, and, second, cannot be reviewed by a court in that Member State prior to the surrender of the person concerned.

[23] Joined Cases C-566/19 PPU *JR* and C-629/19 PPU *YC*, paras 68-74 (French procedural rules comply with the required effective judicial protection); Case C-625/19 PPU *XD*, paras 48-52 (Swedish procedural rules comply with the required effective judicial protection).

[24] Case C-627/19 PPU *ZB*, para 35.

[25] Case C-648/20 PPU *PI*, paras 47-48.

[26] See above Judgment of 9 October 2019 in Case C-489/19 *NJ*.

[27] In this regard, see pending Case C-78/20, where the referring court asks whether the requirements which an EAW must satisfy as a judicial decision under Articles 1(1) and 6(1) EAW FD must be applied also to supplementary information provided pursuant to Article 15(2) thereof, where, for the purposes of the decision of the executing judicial authority, it substantially supplements or changes the content of the arrest warrant originally issued.

- Hearing the requested person (Article 19 EAW FD)
- Decision on postponement or temporary surrender (Article 24 EAW FD)
- Consent in a case of subsequent surrender/extradition (Article 28(3) EAW FD)

3. Questionnaire

1. Competent issuing/executing judicial authority

*(a) Which is the competent **issuing** judicial authority in your country? Can a public prosecutor issue an EAW in your country? Which is the entity, in your Member State, that ultimately takes the decision to issue an EAW? If a public prosecutor decides on the issuing of an EAW, please specify if a court performs any ex-officio review/endorsement.*

*(b) Which is the competent **executing** judicial authority in your country? Can a public prosecutor execute an EAW in your country? Please specify if your reply is different in relation to:*

- *Decide on keeping the requested person in detention (Article 12 EAW FD);*
- *Decide on the execution of an EAW when the requested person consents to the surrender (Article 13 EAW FD)*
- *Decide on the execution of an EAW when the requested person does not consent to the surrender (Article 14 EAW FD)*
- *Decide on competing EAWs (Article 16(1) EAW FD)*
- *Agree that the requested person should be heard or agree to the temporary transfer of the requested person (Article 18 and 19 EAW FD)*
- *Hear the requested person (Article 19 EAW FD)*
- *Decide on postponement or temporary surrender (Article 24 EAW FD)*
- *Consent to dis-apply the speciality rule (Articles 27(3)(g) and 27(4) EAW FD)*
- *Consent in a case of subsequent surrender/extradition (Article 28(3) EAW FD)*

Which is the entity, in your Member State, that ultimately takes the decision to execute an EAW? If a public prosecutor decides on any of the abovementioned issues, please specify if a court performs any ex-officio review/endorsement.

2. Independence of public prosecutors

Does your national law afford public prosecutors a guarantee of independence from the executive so that they are not exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as a Minister for Justice, in connection with the adoption of a decision to issue/execute an EAW? Please clarify if there are any legal provisions, which give the executive a power to issue instructions to the prosecutor, and, if so, to what extent.

3. Effective judicial protection

If your Member State Member States confers the competence to issue/execute an EAW to a public prosecutor, please specify whether the decision to issue[28] and/or execute an EAW, is capable of being the subject of court proceedings, which meet in full the requirements inherent in effective judicial protection. Please specify how your national legal order safeguards the requisite level of protection, e.g. a separate legal remedy against the decision of the public prosecutor, other procedural rules.

4. Consequences and measures

What are the consequences of the CJEU's case law for your national legal order? If your Member State is affected by the CJEU's judgments in relation to the concept of issuing and/or executing authority, which legal and/or practical measures has been taken or will be taken in order to prevent and address this issue? Is an amendment of national legislation required?

[28] Only for those Member States that confer the competence to issue an EAW for the purpose of prosecution to a public prosecutor (in light of CJEU, Case C-627/19 PPU *ZB*, see above).

5. Other additional information

Do you have, in view of the CJEU's above-mentioned judgments, any other additional information or comments that you would like to share with the other Member States? This reply could include, for instance, certificates, relevant national judgments or recent changes in national law.

National authorities of the EU Member States, Iceland, Norway and the United Kingdom are kindly invited to review the previously provided replies and to send any update if needed to Eurojust and the EJN to the following email address: cooperationEAW@eurojust.europa.eu, with the Commission (JUST-EAW-COORD@ec.europa.eu) in Cc.

Eurojust and EJN will share the updated Compilation with the competent national authorities and publish it as a public Council document.

4. Overview of full responses to the questionnaire

4.1. Overview of responses by the EU Member States

4.1.1. Austria (AT)

Austria	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Regional courts and District Courts, and the Public Prosecutor's Offices at the Regional Courts. Prosecutors issue an EAW, but it becomes valid only if it is authorized by a judge. Sect. 29/1 of the federal law on judicial cooperation in criminal matters with the Member States of the European Union states: "The public prosecutor shall order the apprehension by way of a European arrest warrant authorized by a court…". The court receives the whole case file. In authorizing an EAW, the court is obliged to assess the requirements for issuing an EAW, in particular the necessity and proportionality of the EAW. The ultimate decision to issue an EAW lies therefore with a judge. **Public Prosecutor's independence from the executive?** The AT Minister of Justice can give instructions to the prosecutor in individual cases. Instructions have to be given in writing and are always part of the case file. **Effective judicial protection?** The decision and inter alia the proportionality of such a decision always has to be the subject of court proceedings, otherwise the EAW cannot be issued as stated under question 1. In addition, the EAW may be challenged by the person concerned. In dealing with such a legal remedy, the Court of Appeal will assess the requirements for issuing an EAW, in particular proportionality. **Impact of the CJEU's case law on 'issuing' judicial authority** In accordance with the decision of the CJEU of 9.10.2019, C-489/19 PPU, NJ (Staatsanwaltschaft Wien), and against the background of the answer to questions number 1 to 3, Austria is of the opinion that the procedure for issuing an EAW is in line with the FD EAW. **Further relevant information** The notification of Austria regarding Art 6 para. 3 FD EAW has been updated after the CJEU's judgment in Case C-489/19 PPU NJ (Staatsanwaltschaft Wien) (see attached document).  ST06016.EN20.DOCX

Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The Public Prosecutor's Offices at the Regional Courts. The Court decides on the surrender of a person on application of the PPO. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD);** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** The Appeal Court that has executed the EAW. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** In cases of subsequent surrender to another EU-MS on the basis of an EAW: The Court that has decided on the execution of the EAW. In cases of subsequent extradition to a third state the Court has to decide on the admissibility and the Federal Ministry of Justice has to grant the subsequent extradition on the basis of the Court´s decision **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** Yes by the court of first instance. Court decision to surrender a person is also subject to a legal remedy – Court of Appeal. **Impact of the CJEU's case law on 'executing' judicial authority** **Further relevant information** No

4.1.2. Belgium (BE)

Belgium	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** In general, an EAW for prosecution purposes is issued by an investigative judge immediately after he/she has issued a national arrest warrant in absentia. A prosecutor can only issue an EAW - following an arrest warrant issued by a court in the trial phase - for the purpose of prosecution of minors. Furthermore, a prosecutor is the competent authority for issuing an EAW for the purpose of the execution of sentences. **Public Prosecutor's independence from the executive?** The Belgian Constitution guarantees the independence of the public prosecution office within the framework of individual investigations and prosecutions (art. 151, §1 of the Constitution). This independence is not affected by the possibility of the Minister of Justice to order to launch a prosecution before the Belgian courts. The competency of the Minister of Justice does not entail the possibility to give specific instructions on how the investigation should be conducted, nor any powers related to investigative measure, including the issuing of a European arrest warrant. This competency is moreover merely related to facts and can never be directed against a specific person. The Minister of Justice may also issue binding guidelines on general criminal policy, including those related to investigation and prosecution policy. These guidelines are not directives or instructions in individual cases. Furthermore, the independence of the prosecutor guarantees that he/she is always entitled to divert from these guidelines based on the concrete elements of the case (art. 151, §1 of the Constitution). **Effective judicial protection?** As explained by the agents of the Belgian government in its submissions Case C-627/19 PPU ZB, the requirements inherent in effective judicial protection that needs to be fulfilled for when a public prosecutor decides to issue an EAW are guaranteed through a global system which ensures effective judicial protection on various levels through legal, statutorial and organizational provisions. Legally, it should be underlined that the EAW will always need to be preceded by a national arrest warrant issued by a judge. It is at this stage that all the applicable procedural guarantees, as enshrined under the Charter of the Fundamental Rights of the EU, are upheld, which is an essential prerequisite for issuing an European Arrest Warrant pursuant to the Bob Dogi judgment. Furthermore, the effective judicial protection is guaranteed through the constitutional provisions on the independence of the public prosecutors from the Ministry of Justice, see response on question 3. Lastly, effective judicial protection is guaranteed through guidelines that can be found in the Manual to execute and issue and European

	Arrest Warrant of the European Arrest Warrant, and on the Belgian level, the guidelines put together by the College of Prosecutors-General. For example, one of such guidelines prescribes that an European Arrest Warrant for the purpose of executing a sentence can only be issued if one or more prison sentences put together amount to minimum 3 years. **Impact of the CJEU's case law on 'issuing' judicial authority** Not applicable. **Further relevant information**  BE_certificate.pdf
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The examining magistrate (investigating judge) and the Court in Chambers (the Court in Chambers attached to the Court of Appeal decides on appeal against decisions of the court in chambers). **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** The public prosecutor decides on the execution of the European arrest warrant if the person concerned consents to his/her surrender (article 13 FD and art. 13, §3 of the law of 19 December 2003 on the European arrest warrant). • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** The Court in Chambers which handed over the person decides under the conditions provided for in article 16 of the law of 19 December 2003. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** No legal remedy. The public prosecutor only decides on the execution of the EAW in case the person concerned consents to his/her surrender in accordance with article 13 of the framework decision. The consent is subject to strict conditions: this consent should be given voluntarily before the public prosecutor, in the presence of his/her lawyer and after he/she has been informed of the consequences of his consent. The public prosecutor checks on this occasion whether the person concerned also consents to waive the benefit of the rule of specialty. Furthermore, consent can only be given after the person has been heard by a examining magistrate (investigating judge) who carries out a the first assessment of the

	refusal grounds. **Impact of the CJEU's case law on 'executing' judicial authority** **Further relevant information** Internal assessment is still ongoing.

4.1.3. Bulgaria (BG)

Bulgaria	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** a/At the pre-trial phase of the criminal proceedings the prosecutor takes a decision for issuing an EAW against the defendant on the basis of a domestic warrant issued by the prosecutor with a guarantee that after surrendering of the requested person he/she will be brought to the court for confirmation of the restrain measure or change it; b/At the trial phase only the court can take a decision for issuing an EAW against the accused person; c/At the execution phase of serving of penalty the prosecutor takes a decision for issuing a EAW against the sentenced person. In the case of an EAW for the purposes of a criminal prosecution in the pre-trial phase and/or for issuing an EAW for the purposes of executing a custodial sentence, the public prosecutor is the authority that ultimately takes the decision to issue an EAW. The specificity lies in the fact that, where an EAW is issued for the purposes of executing a custodial sentence, this power is vested in the public prosecutor who has been entrusted with the execution (judgment) case file. **Public Prosecutor's independence from the executive?** The Bulgarian national legislation gives a guarantee for independence of the Prosecution office from the executive power and in particular from the Ministry of justice. There are not any provisions stipulated the Ministry of justice to issue an instruction or orders to the Prosecution office. The employer of each prosecutor is the Supreme Judicial Council. The meetings of the Supreme Judicial Council are chaired by the Minister of justice who does not have any right to vote. Therefore the Prosecution office is fully independent of the Ministry of justice. In view of the position of the public prosecutor as a judicial authority fully independent from the executive, the requirements for independence set by the case-law of the CJEU are met. The same applies to the requirements of objectivity when issuing an EAW for the purposes of a criminal prosecution in the pre-trial phase, to the extent that the public prosecutor is bound to take both exculpatory and incriminatory evidence and to assess it impartially. **Effective judicial protection/legal remedy?** 1.The public prosecutor's decision to issue an EAW for the purposes of a criminal prosecution in the pre-trial phase may be based on an effective national decision on detention of the person, which can be: a) a court decision: an enforceable order for detention on remand pending trial. A case in point is the situation in which the

	intermediate appellate review court sets aside an order of the court of first instance denying a motion by a public prosecutor under Article 64 of the Code of Criminal Procedure (NPK) and ordering further detention on remand, then itself orders detention on remand pending trial. Under the circumstances, the decision to issue an EAW is predetermined by the court decision and constitutes a step executing that decision. This option is elaborated in point 1.1.a of the Prosecutor General's Instruction approved by Order No 1774/2014. In our opinion, such a turn of events and correlation can be interpreted as a form of prior judicial review and a sanction from the court for the issuing of an EAW, including with regard to its proportionality. b) a public prosecutor's detention warrant under Article 64(2) of the NPK. Bulgarian authorities are familiar with the new decision Case C-648/2020 PPU, concerning European arrest warrant issued by the Bulgarian public prosecutor's office /of a Member State/ for the purposes of a criminal prosecution on the basis of a detention order issued by the same authority – No judicial review prior to surrender of the requested person. This issue must be interpreted as meaning that the requirements inherent in the effective judicial protection that must be afforded to a person who is the subject of a European arrest warrant for the purpose of criminal prosecution are not satisfied where both the European arrest warrant and the judicial decision on which that warrant is based are issued by a public prosecutor – who may be classified as an 'issuing judicial authority' within the meaning of Article 6(1) of that framework decision – but cannot be reviewed by a court in the issuing Member State prior to the surrender of the requested person by the executing Member State. Ministry of Justice of the Republic of Bulgaria formed a working group of experts for amendments of the national legislation. This process is ongoing for the next months. Until this happens the prosecution office is trying to limit the scope of issuing such EAWs, which might be assessed as not valid. Meanwhile the issuing authorities are exploring every possibility to guarantee judicial control over the national arrest warrant (NAW). The EAW aimed at the execution of sentence are considered as nor affected by the decision (Case C-648/2020 PPU) since they are based on a final verdict of the court. It is always guaranteed that, when an EAW is executed and the person is surrendered to the Bulgarian authorities, the person will by all means be presented before the court of first instance for an examination of the public prosecutor's motion to order detention on remand pending trial. The fact that the surrendered person will be compulsorily brought before a court for an examination of a motion to order detention on remand pending trial in our opinion constitutes follow-up judicial review of the public prosecutor's decision to issue an EAW, which is ensured precisely by these proceedings. The admissibility of follow-up judicial review, including after the surrender of the requested person, and the absence of a requirement to introduce a right to appeal separately the decision to issue an EAW (this is only one of the options for effective judicial review) have been recognised by the CJEU (see in particular paragraphs 64 to 66 and 70 of the judgment in Joined

	Cases C-566/19 PPU and C-629/19 PU, and paragraphs 43 to 45 of the judgment in Case C-625/19). We suggest that you consider the possibility, when sharing the information relevant to the Republic of Bulgaria, of inferring the existence of guarantees of an adequate and effective judicial review in such cases from the fact that proceedings before a court are ensured immediately after the surrender of the person, in which the pleas in law for ordering detention on remand pending trial are assessed, i.e. the issuing of the EAW is reviewed as well. 2. As to the right of defence of the person concerned within the context of Directive 2013/48/EU, this right is guaranteed in the proceedings on outgoing and incoming European arrest warrants by the rules of Article 43 of the Extradition and European Arrest Warrant Act (ZEEZA) and the rules on mandatory defence under the NPK. When a requested person under an EAW is presented before a court in the Republic of Bulgaria, the competent court appoints a legal counsel and an interpreter to the person if he or she does not speak Bulgarian and familiarises the person with the plea in law for his or her detention, the contents of the European arrest warrant, and his or her right to express consent to surrender to the competent authorities of the issuing Member State and the consequences thereof. On the other hand, if the person is detained on a public prosecutor's warrant under Article 42(2) of the ZEEZA, the rules of the NPK on mandatory defence guarantee the appointment of a legal counsel, irrespective of whether the person concerned speaks Bulgarian. Upon commencement of the judicial proceedings on an incoming EAW, the court informs the person claimed of his or her right to a legal counsel in the issuing Member State whose role is to assist the legal counsel in the Republic of Bulgaria by providing information and advice. If the person declares that he or she wishes to exercise this right, the court immediately informs the competent authority of the issuing Member State of this wish (Article 43(5) of the ZEEZA). This fulfils the requirements of Article 10 of the above-mentioned Directive. **Impact of the CJEU's case law on 'issuing' judicial authority** In accordance with the opinion of the Bulgarian Prosecution office, the Republic of Bulgaria in its capacity as issuing body is not affected by the CJEU's judgement and thus there is no need for amending the BG legislation. To date we are not aware of a position of the Bulgarian authorities to the effect that the Republic of Bulgaria is affected by the CJEU's judgments in a manner requiring a change of the regulatory framework. The formal opinion of the Public Prosecutor's Office of the Republic of Bulgaria (PRB) is that public prosecutors meet the requirements for an 'issuing judicial authority'. In this regard, organisational measures have been taken by supplementing the Instruction regarding the issuing of an EAW under Order No 1774 of 2014 by a new Order No RD-02-19 of 26 July 2019 (see attached file) and the publication of the CJEU's judgments in Joined Cases C-508/18 and C-82/19 PPU and in Case C-509/18. The other measures, if it is determined that the Republic of Bulgaria is

	supposed to reallocate EAW issuing powers, can only be regulatory, and they do not fall within the remit of the PRB. **Further relevant information** BG PPO order.pdf BG_certificate.pdf
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** District courts. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD);** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** Same as executing authority – the district court. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** **Effective judicial protection/legal remedy?** Not applicable. **Impact of the CJEU's case law on 'executing' judicial authority** **Further relevant information**

4.1.4. Croatia (HR)

Croatia	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Competent judicial issuing authority: - the competent state attorney's office (in proceedings prior to the confirmation of an indictment); - the competent court (after the confirmation of an indictment and in proceedings relating to the execution of a custodial sentence). **Public Prosecutor's independence from the executive?** Prosecutors in Croatia are part of the judiciary. According to the Croatian Constitution, Prosecution Office is autonomous (independent) from the executive power and is part of the judicial power. Prosecutors are not exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific criminal case coming from the executive. **Effective judicial protection?** The Republic of Croatia implemented Directive 2013/48/EU (regarding the right of access to a lawyer in criminal proceedings and EAW proceedings). Before issuing of EAW by the prosecutor, the court makes a decision on detention. An appeal is possible against that decision. There is no appeal against EAW. After arrest and detention upon an EAW, an appeal is possible. **Impact of the CJEU's case law on 'issuing' judicial authority** Taking into account the previous answers, no measure needs to be taken. **Further relevant information** CRO_certificate.pdf
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule	**Competent authority to execute EAWs** The district courts competent under domestic law. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD);** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** County court where a person has been arrested. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)**

-consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Public Prosecutor's independence from the executive?** **Effective judicial protection/legal remedy?** **Impact of the CJEU's case law on 'executing' judicial authority** Since Public prosecutors offices don't decide on the execution of the EAW`s (and are free from any instructions), there will be no need for a change of legislation. **Further relevant information**

4.1.5. Cyprus (CY)

Cyprus	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Prosecutors in Cyprus cannot issue EAWs. According to Article 6 of Law 133 (I) / 2004, the competent judicial authority issuing an EAW is the Provincial Judge in whose province the territorial jurisdiction of the offense for which the arrest and surrender of the requested person is pursued or the Court which issued the regarding the sentence or the security measure. The entity in Cyprus that ultimately takes the decision to take EAW is the District Court Judge. **Public Prosecutor's independence from the executive?** The Attorney General of the Republic of Cyprus is an independent authority and Public Prosecutors acting on his behalf enjoy a degree of independence. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** Not applicable.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** A judge of the territorially competent District Court, or by default a judge of the District Court of Nicosia. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD);** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** The executing judicial authority. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** Not applicable. **Impact of the CJEU's case law on 'executing' judicial authority**

4.1.6. Czech Republic (CZ)

Czech Republic	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** In the CZ only courts can issue the EAW. **Public Prosecutor's independence from the executive?** The executive body cannot give directions or instructions to the prosecutors in a specific case. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** Not applicable. **Further relevant information**
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The regional courts. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD);** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** The decisions of the Regional Courts are appealable to the High Courts. **Impact of the CJEU's case law on 'executing' judicial authority** Not expected.

4.1.7. Denmark (DK)

Denmark	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** According to the Danish Act on the Extradition of Offenders, Sections 46 and 47, the courts are the only competent authority to issue EAWs. **Public Prosecutor's independence from the executive?** Not applicable. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** Not applicable. **Further relevant information** As per 15 February 2020, a new Act on the Extradition of Offenders entered into force in Denmark. According to the new law, the courts are the only competent authority to issue European arrest warrants in Denmark, which is done on the application of the Prosecution Service. The EAWs are issued by the District Courts and appealable to the High Court.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The courts. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD);** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** All the above are under the competence of the courts. **Public Prosecutor's independence from the executive?** Not applicable **Effective judicial protection/legal remedy?** The decisions of the District Court are appealable to the High Courts. **Impact of the CJEU's case law on 'executing' judicial authority** As per 15 February 2020, a new Act on the Extradition of Offenders entered into force in Denmark. According to the new law, the

	courts are the only competent authority to execute European arrest warrants in Denmark.

4.1.8. Estonia (EE)

Estonia	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Competent judicial issuing authority: - EAW's for prosecution are issued by the public prosecutor. - EAW's for court proceedings are issued by the court which conducts the proceedings. - EAW's for the execution of a judgment are issued by the court which has enforced the judgment. According to Code of Criminal procedure § 507 (1), in pre-trial proceedings it is the prosecutor's office which takes the decision to issue an EAW and in court proceedings it is the court conducting proceedings regarding a criminal offence which is the basis for an EAW, which takes the decision to issue an EAW. Prosecutor issues an EAW based on a national arrest warrant, which is issued by the court. Ministry of Justice forwards the EAW to the executing state. **Public Prosecutor's independence from the executive?** Yes. For details see the PDF file enclosed below under "further relevant information". **Effective judicial protection?** Any decision or activity of the prosecutor, including issuing of the EAW, can be appealed against according to the Estonian Code of Criminal procedure § 228. This appeal is first adjudicated in the Office of the Prosecutor General and the decision of the Office of the Prosecutor General can be appealed in the county court according to the Code of Criminal Procedure § 230. **Impact of the CJEU's case law on 'issuing' judicial authority** When an EAW is issued by the prosecutor, a statement declaring that Prosecutor's Office is independent in the performance of its functions arising from law, is forwarded to the executing state together with EAW. **Further relevant information** Estonian statement-EAW.pdf
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent);	**Competent authority to execute EAWs** Competent judicial executing authority: Harju County Court and Tartu County Court. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD);** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)**

-deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	• **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** Yes. For details see the PDF file enclosed above under "further relevant information". **Effective judicial protection/legal remedy?** **Impact of the CJEU's case law on 'executing' judicial authority**

4.1.9. Finland (FI)

Finland	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Prosecutors are the only competent authorities to issue EAW's in Finland. According to the Act on Extradition on the Basis of an Offence Between Finland and Other Member States of the European Union (1286/2003) prosecutor may issue an EAW for prosecution and for the enforcement of a custodial sentence. **Public Prosecutor's independence from the executive?** According to the Act on the National Prosecution Authority (32/2019) the National Prosecution Authority is, independently and autonomously, responsible for organising the prosecutorial activities in Finland. According to the above-mentioned act each prosecutor makes decisions in criminal matters being handled by them, falling within the prosecutors' power of decision independently and autonomously. Due to the autonomous and independent status of the prosecutor he or she may not be directed or instructed in a specific case or otherwise by the executive, such as a Minister for Justice in any way, including issuance of with deciding to issue an EAW. **Effective judicial protection?** All requirements inherent in effective judicial protection as laid down in CJEU's Judgments apply to the EAW procedure in Finland. Prosecutor may issue an EAW for prosecution only if the person against whom an EAW will be issued has been remanded by a court order. The conditions for the issuing of an EAW and its proportionality are therefore subject to judicial review before an EAW is issued. Judicial review is also possible after the issuing of an EAW. The court may remand a person suspected of an offence and whose extradition to Finland is to be requested if the most severe punishment provided for the offence is imprisonment for at least one year and there are grounds to suspect that the person will not arrive voluntarily in Finland. Prosecutor's request for remand is made for the explicit purpose of issuing an EAW. The court may not order a person to be remanded unless it considers the measure to be justifiable with consideration to the seriousness of the offence under investigation, the importance of clarifying the offence and the degree to which the use of the coercive measures infringes on the rights of the suspect or of others (principle of proportionality). The person against whom an EAW has been issued has the right of access to a lawyer. Directive (2013/48/EU) on the right of access to a lawyer in criminal proceedings and in EAW proceedings has been implemented and the related national legislation entered into force in Finland on 27 November 2016. The person against whom an EAW has been issued for the purpose

	of prosecution has the right to request the Court to hold a new remand hearing. The person also has the right to file a complaint against the Court's decision on remand without time limits. Based on a complaint the Court of Appeal may overturn the lower Court's decision on remand. If the lower Court's decision on remand is annulled, the EAW will be automatically cancelled. Once the requested person is surrendered to Finland, the court will hold a new remand hearing without delay and in any case not later than four days from the time when the requested person arrived in Finland. Prosecutor may issue an EAW for the enforcement of a custodial sentence only on the basis an enforceable custodial sentence issued by a court. **Impact of the CJEU's case law on 'issuing' judicial authority** Finland is not affected by the CJEU's judgments. **Further relevant information** The Finnish Office of the Prosecutor General issued a Memorandum:  FI_certificate.pdf  FI EAW
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** District Court of Helsinki and on appeal the Supreme Court. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** District Court of Helsinki. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** **Effective judicial protection/legal remedy?** **Impact of the CJEU's case law on 'executing' judicial authority**

4.1.10. France (FR)

France	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Prosecutors are solely competent to issue European arrest warrants. In fact, under Article 695-16 of the Code of Criminal Procedure, the public prosecutor's office of a jurisdiction puts into effect arrest warrants issued by an investigating Judge, a Court or a Judge responsible for the terms and conditions of sentences under the form of European arrest warrants. The public prosecutor's office is also competent to implement in the form of a European arrest warrant the execution of custodial sentences of four months or more pronounced by the trial courts. The public prosecutor's office issues a European arrest warrant either automatically or at the request of the jurisdiction which has issued a national arrest warrant. **Public Prosecutor's independence from the executive?** Article 30 of the Code of Criminal Procedure expressly excludes the possibility for the Minister of Justice to give instructions to the public prosecutor in individual cases. In addition, Article 31 of the same Code provides that the public prosecutor's office carries out public prosecution and requests the enforcement of the law in accordance with the principle of impartiality to which he is bound. C-556/19 and C-626/19 cases on the 12th of December 2019, the CJEU ruled that **the French public prosecutor is covered by the term "issuing judicial authority" :** **«** *Article 6(1) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as meaning that* ***the public prosecutors of a Member State, who are responsible for conducting prosecutions and act under the direction and supervision of their hierarchical superiors are covered by the term 'issuing judicial authority'****, within the meaning of that provision,* ***provided that their status affords them a guarantee of independence, in particular in relation to the executive, in connection with the issuing of a European arrest warrant."*** **Effective judicial protection?** The French code of Criminal Procedure provides that a European Arrest Warrant issued for the purposes of prosecution has necessarily to be preceded by the issuance of a domestic arrest warrant by a Court in the frame of the criminal proceedings pending in France. It is the duty of this Court to assess the proportionality and the necessity of the issuance of the arrest warrant. The decision of the Court of first instance in this regard can be challenged before the Court of appeal.

	The first level of protection implemented by the Framework decision on EAW is therefore completely ensured in France, insofar as the EAW is always based on a domestic decision issued by a judge. Furthermore, the decision to issue a EAW can in France be challenged in any case. Before trial, pursuant Article 170 of the French code of Criminal Procedure, the EAW can be referred to the courts for invalidation. Actions for invalidation are opened during the entire pre-trial period, and this for any kind of judicial process. According to the case law of the French supreme Court (Cour de cassation), if a request for annulation/invalidation of a EAW is brought before the Court, the Court has to verify whether the legal requirements for issuing a domestic arrest warrant are met or not and whether the issuance of a domestic EAW was necessary and proportionate. Nevertheless, such action is opened for the only parties to the proceedings. In other cases, the action can be brought before the Court only after the notification of the EAW and the effective surrender of the concerned person. After trial, the sentenced person who is the subject of a EAW has a right to lodge classical remedies (appeal before the Court of appeal, remedy before the French supreme Court) against the decision imposing the sentence on which the EAW is based. Moreover, according to Article 710 of the French code of Criminal Procedure, in order to challenge specifically the EAW, the sentenced person has a right to lodge a particular remedy. This remedy may refer to the validity of the issuance of an EAW and may be lodged as soon as the EAW has been issued, provided that the concerned person has been previously informed of the existence of the EAW before its notification. In any event, after its surrender, the concerned person has the right to be assisted by a lawyer for every remedy lodged against the EAW. In the C-556/19 and C-626/19 cases on the 12th of December 2019, the CJEU ruled that the judicial protection was effective in France, especially because the proportionality as to the issuance of a EAW could be reviewed by a jurisdiction : *"Council Framework Decision 2002/584, as amended by Framework Decision 2009/299, must be interpreted as meaning that the requirements inherent in* ***effective judicial protection*** *which must be afforded any person in respect of whom a European arrest warrant is issued in connection with criminal proceedings* ***are fulfilled if****, according to the law of the issuing Member State,* ***the conditions for issuing such a warrant, and in particular its proportionality, are subject to judicial review in that Member State. »*** **Impact of the CJEU's case law on 'issuing' judicial authority** France is not affected directly by the CJEU's case C510/19 of the 24th of November 2020. Indeed, contrary to the Netherlands, and as explained above, the French prosecutors of first instance and General prosecutors at the Court of appeal are considered as a "judicial authority" as the CJEU ruled in the C-556/19 and C-626/19 cases on the 12th of December 2019.

	Article 30 of the French Code of Criminal procedure expressly excludes the possibility for the Minister of Justice to give instructions to the public prosecutor in individual cases. Therefore, France has not to take any practical measures nor legal amendment to address the issue raised by the CJEU's case.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** According to article 695-26 and 695-27 of the French Code of Criminal procedure, the General Prosecutor at the Court of appeal ("procureur général") is responsible for the first steps of the process of executing an EAW. Indeed, when a requested person is arrested, he or she is brought before the General prosecutor who officially notifies the EAW and refers the case to the examining Chamber of the Court of appeal ("Chambre de l'instruction") whether the requested person consents or not to the surrender (article 695-31 of the CPP). **The competent Chambers for EAWs at the courts of appeal are solely competent to execute European arrest warrants**. They are also competent to hear the requested person (article 695-30 of the Code of Criminal Procedure) or agree to his or her temporary transfer (article 695-45 of the same Code). The Court can also postpone its decision or temporary surrender the requested person (article 695-30), or disapply the speciality rule (695-46). The decision on the detention of the requested person also belongs solely to the competent Chambers for EAWs at the courts of appeals whether it follows the arrest (article 695-28 of the CPP) or whether it follows a request for temporary release of the wanted person (695-34 of the CPP). It is the same in case of competing EAWs (article 695-42 of the Code of Criminal procedure), even though Eurojust can also be consulted. According to article 695-31 § 4 of the French Code of Criminal procedure, the decisions issued by the competent Chamber for EAWs at the court of appeal can be challenged by the wanted person or the General Prosecutor before the French supreme Court ("Cour de cassation"). **Therefore, the General Prosecutor at the court of appeal never takes any decision to execute an EAW.** **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)**

	• **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** As stated below, the previous reply applies in all these situations. **Public Prosecutor's independence from the executive?** See above **Effective judicial protection/legal remedy?** The decision are solely issued by the 3 judges belonging to the competent Chamber for EAWS of the Court of Appeal, and can be contested referring to the Supreme Court, so that the judicial protection is effective. A lawyer can also assist the requested person at any stage of the extradition process (article 695-27 of the CPP). **Impact of the CJEU's case law on 'executing' judicial authority** At this stage, no amendment of national legislation is required. France is not affected directly by the CJEU's case C-510/19 of the 24th November 2020 that ruled that : *« **The concept of 'executing judicial authority'** within the meaning of Article 6(2) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, c**onstitutes an autonomous concept of EU law** which must be interpreted to the effect **that it covers the authorities of a Member State which, without necessarily being judges or courts, participate in the administration of criminal justice in that Member State, acting independently in the exercise of the responsibilities inherent in the execution of a European arrest warrant and which exercise their responsibilities under a procedure which complies with the requirements inherent in effective judicial protection**.* *2. Article 6(2) and Article 27(3)(g) and 27(4) of Framework Decision 2002/584, as amended by Framework Decision 2009/299, must be interpreted as meaning that **the public prosecutor of a Member State who,** although he or she participates in the administration of justice, **may receive in exercising his or her decision-making power an instruction in a specific case from the executive, does not constitute an 'executing judicial authority' within the meaning of those provisions."*** The French Prosecutor/General Prosecutor (who do not *per se* execute the EAW) are "judicial authorities", who do not receive instructions in specific cases according to article 30 of the Code of Criminal procedure. The French procedure in that matter also allows an effective judicial protection : the investigating judges of the Court of appeal decide on the cases and the requested person (as the public prosecutor) can refer the decision to the Supreme Court and be assisted by a lawyer in the whole process.

4.1.11. Germany (DE)

Germany	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** The local, regional or higher regional courts and the Federal Court of Justice. The public prosecutors in those courts shall be responsible for enforcement of EAW's and shall also be the competent contact persons for all matters concerning recognition of the EAW's and surrender. **Public Prosecutor's independence from the executive?** The Federal Government is not aware of any case in which direct or indirect influence by a Ministry of Justice on state level or federal level regarding the issuing of an EAW was exerted. Nevertheless sec. 146 and 147 Courts Constitution Act have the following wording: Section 146 The officials of the public prosecution office must comply with the official instructions of their superiors. Section 147 The right of supervision and direction shall lie with: 1. the Federal Minister of Justice and Consumer Protection in respect of the Federal Prosecutor General and the federal prosecutors; 2. the Land agency for the administration of justice in respect of all the officials of the public prosecution office of the Land concerned; 3. the highest-ranking official of the public prosecution office at the Higher Regional Courts and the Regional Courts in respect of all the officials of the public prosecution office of the given court's district. According to these legal norms and their interpretation by the CJEU, there is thus a risk for public prosecutors to be subject, directly, or indirectly, to directions by the executive. However, as stated above, this risk has never materialised in in any case related to an EAW. **Effective judicial protection?** EAWs for the purpose of prosecution are no longer issued by public prosecutors. Instead, they are issued by way of court order. The requirement of effective judicial protection against the decision to issue an EAW as stipulated by the CJEU is therefore no longer relevant in the German context. However, the general legal remedy against a court order is the complaint under sec. 304ff. of the German Code of Criminal Procedure. Separate judicial remedy can be sought against the underlying national arrest warrant. **Impact of the CJEU's case law on 'issuing' judicial authority**

	After the judgement of 27 May 2019, the German Federal Ministry of Justice and Consumer Protection informed the State Ministries of Justice and practitioners that the ruling of the CJEU should be interpreted as meaning that a court has to decide on issuing an EAW, and that it is the opinion of the Federal Government that the existing law must henceforward be interpreted in this way. A conference took place in the Ministry in June 2019, which allowed for a discussion of the ruling's consequences. Several short-term measures were taken by the Ministry and included the facilitation of communication between relevant actors on a national and European level, in particular to ensure that EAWs which had been issued by public prosecutors before the CJEU ruling were re-issued by courts as quickly as possible. The German notification under Art. 6 (3) of FD EAW has been changed to reflect the new situation (see below). **Further relevant information**  DE_certificate_2.pdf  Changed notification EAW GE  Germany Working Paper.pdf
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** Public prosecutor's offices in the higher regional courts, which shall take final decisions on surrender cases on the basis of decisions by those higher regional courts. Regarding the decision on the execution of EAWs, the German Law on International Cooperation in Criminal Matters (LICAM) draws a distinction between the decision on the permissibility of the surrender, the decision on obstacles to authorising the surrender and the final decision to authorise the surrender. A three-step procedure applies: First, the public prosecution office at the higher regional court gives a decision as to whether it plans to assert obstacles to authorising the surrender (section 79 paragraph 2 LICAM) and applies to for the higher regional court to give a decision in respect of whether surrender is permissible (sections 78, 29 LICAM). Second, the higher regional court decides on the permissibility of the surrender (sections 78, 12 LICAM) and reviews the decision on obstacles to authorising the surrender (section 79 paragraph 2 LICAM). Third, if the higher regional court has declared the surrender permissible and has validated the decision on obstacles to authorising the surrender, the public prosecution office takes the final decision to authorise the surrender. As a result, while the public prosecution office formally makes the final decision on the surrender, it is bound by the higher regional court's decision and can only execute the EAW if the higher regional court has decided that the surrender is permissible and has validated the decision that there are no obstacles to authorising the surrender. In case the requested person consents to his or her surrender, the public prosecution offices at the higher regional courts have discretion as to whether they apply for a decision by the higher

	regional court (sections 78, 29 LICAM). As a consequence of the judgment in Case C-510/19, sections 78, 29 LICAM are now to be interpreted to the effect that an application to the higher regional courts is also mandatory in these cases. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** According to sections 78, 17 LICAM, the provisional arrest pending extradition (section 16 LICAM) and the arrest pending extradition (section 15 LICAM) are ordered by way of written arrest warrant (warrant of arrest pending extradition) issued by the higher regional courts. • **Requested person's consent to surrender (Art. 13 EAW FD)** See reply regarding the execution of EAWs (sections 78, 29 LICAM). • **Competing EAWs (Art. 16(1) EAW FD)** The same procedure as described above for the execution of EAWs applies (section 83b, paragraph 1 No. 3 LICAM). • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** Section 83e, paragraph 1, LICAM stipulates that, pending the decision on the execution of the EAW, a request by the requesting Member State for the person pursued to be heard as an accused is to be authorised. This decision is formally taken and executed by public prosecution offices at the higher regional courts. • **Hearing the requested person (Art. 19 EAW FD)** See reply to previous question. • **Postponement or temporary surrender (Art. 24 EAW FD)** Regarding temporary surrender (sections 77, 37 LICAM), the same procedure as described above for the execution of EAWs applies. The postponement of surrender on account of ongoing criminal proceedings or enforcement of a criminal sanction against the person pursued in Germany presupposes the prior authorisation of the surrender according to the procedure described above (section 83c, paragraph 4, sentence 4 LICAM). The decision on the postponement of the actual surrender is taken by the public prosecution offices at the higher regional courts. • **Disapplication of the rule of speciality (Art. 27 EAW FD)** The same procedure as described above for the execution of EAWs applies. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** The same procedure as described above for the execution of EAWs applies. **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?**

	The decision of the public prosecution office at the higher regional court as to whether it plans to assert obstacles to authorising the surrender (see above, first step) is subject to review by the higher regional court (section 79 paragraph 2 LICAM). The final decision on surrender (see above, third step) is capable of being subject to a legal remedy according to article 23 paragraph 1 Introductory Act to the Courts Constitution Act. If, following the decision of the Higher Regional Court, circumstances suited to asserting obstacles to authorisation of a surrender arise or become known, sections 79 paragraph 3, 33 LICAM provide for a review. **Impact of the CJEU's case law on 'executing' judicial authority** The German Federal Ministry of Justice and Consumer Protection has informed the competent practitioners of the judgment in Case C-510/19 and that, as a consequence, an application to the higher regional courts should also be made in cases where the requested person has consented to his or her surrender. As a consequence of the judgments in Case C-510/19 and in Cases C 508/18 und C 82/19 PPU, Minister Lambrecht has announced on December 2, 2020, that the German Federal Ministry of Justice and Consumer Protection will propose to change section 147 Courts Constitution Act (see above) in order to exclude the possibility that public prosecutors can be subject to directions by the executive in the area of judicial cooperation in criminal matters with Member States of European Union.

4.1.12. Greece (EL)

Greece	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** According to art. 4 of the Law 3251/2004, the judicial authority authorised to issue a EAW is the Public Prosecutor of the Court of Appeals, who is competent either a) for initiating criminal proceedings for the act(s), for which arrest or surrender is sought, or b) for executing the custodial sentence or detention order imposed. According to the Greek Constitution, prosecutors are members of the judiciary. **Public Prosecutor's independence from the executive?** According to the Greek Constitution, (articles 87 & 88), prosecutors and judges form a single body of "magistrates" (judicial authority), both categories are equated under the above concept and they are integrated into the judicial power. Articles 87 of the Greek Constitution and 24 of the Law 1756/1988 guarantee a genuinely independent status for the Judiciary. Both judges and prosecutors, as "magistrates" enjoy life-long tenure guaranteed by article 88 par. 1 of the Constitution. Fundamental principles regarding the independence of the Prosecution Office are equally provided in Law 1756/1988 on "The Code on the Organisation of the Courts and the Status of Magistrates". Art. 24 par. 1 of the above law on the "independent judiciary" provides that "the Prosecution Office is a judicial authority independent from the courts and the executive power". According to art. 24 par. 4c of Law 1756/1988: "Prosecutors in the execution of their duties and the expression of their views act independently, abiding by the law and their own consciousness" and they are never exposed to the risk of being subject to any subject matter directions or instructions by the executive. We underline, that, according to domestic legislation the recommendations issued by the hierarchical superior prosecutors must not be linked to the substance of the relevant criminal case, as, according to art. 24 of Law 1756/1988 par. 4a & 5: The Prosecution is organised as a unified hierarchical structure under the direction of the Prosecutor General (the Head of the Greek prosecutors) but only "… general orders or recommendations in relation to the exercise of the public prosecutors duties can be legally provided by: a) the General Prosecutor to all prosecutors of Greece; b) the Prosecutor to the Appeals PPO and the Prosecutor to the Court of First Instance PPO to all prosecution officials subjected to the jurisdiction of the Prosecutor to the Appeals PPO and the Prosecutor to the Court of First Instance PPO respectively".

	Effective judicial protection? **Impact of the CJEU's case law on 'issuing' judicial authority** Having in mind the answers provided above Greece is not affected by the CJEU's recent judgments.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** Competent judicial executing authority: - The Presiding Judge of the Court of Appeal, if the arrested person consents to surrender; - The Judicial Council of the Court of Appeal, if the arrested person does not consent to surrender. NB: The judicial authority responsible for receiving the EAW is the territorially competent Public Prosecutor by the Court of Appeal, by default the Public Prosecutor by the Court of Appeal of Athens. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** **Effective judicial protection/legal remedy?** **Impact of the CJEU's case law on 'executing' judicial authority**

4.1.13. Hungary (HU)

Hungary	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Under Hungarian Law, the competent court takes the decision to issue an EAW in Hungary. Pursuant to HU law (Art 25 of the Act CLXXX from the year 2012 on the international cooperation with the MSs of the EU in criminal matters) the EAW can be issued by the Court exclusively. In cases prior to the charging the investigative judge may issue an EAW based on the motion of the prosecutor. The PPOs in Hungary are entitled to submit motions to the Court to issue an EAW, but cannot issue it on their own. Despite that, the HU PPOs are considered as judicial authorities in Hungary. **Public Prosecutor's independence from the executive?** Pursuant to the Fundamental Law of Hungary /Art. 29(1)/ the prosecution service is independent and is not exposed to the risk of being subject to instructions or directions from the executive power. Therefore, the executive is not entitled to give instructions or directions to the prosecution service, neither generally, nor in individual cases. **Effective judicial protection?** Does not concern Hungary. **Impact of the CJEU's case law on 'issuing' judicial authority** Does not concern Hungary. **Further relevant information**
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a	**Competent authority to execute EAWs** The Budapest Capital Regional Court. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** No, for all the above mentioned cases. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** No, for subsequent surrender. In case of subsequent extradition, the Budapest Capital Regional Court makes the decision, whether the legal conditions for the extradition are met, or not, but the final decision is made by the Minister of Justice. In case the Court decides, that the legal conditions for the extradition are not met, the Minister of Justice refuses the extradition of the requested person.

court) -Independence -Effective judicial protection/legal remedy	**Public Prosecutor's independence from the executive?** Pursuant to the Fundamental Law of Hungary /Art. 29(1)/ the prosecution service is independent and is not exposed to the risk of being subject to instructions or directions from the executive power. Therefore, the executive is not entitled to give instructions or directions to the prosecution service, neither generally, nor in individual cases. The Budapest Capital Chief Prosecutor's Office submits its motion to the Budapest Capital Regional Court on the given case, but the court is not bound by this motion. **Effective judicial protection/legal remedy?** The requested person, the defence lawyer and the prosecutor can submit an appeal against the decision. The Budapest Capital Appeal Court makes the final decision in case of an appeal. In case a simplified surrender (the legal conditions of the surrender are met and the requested person consents his/her surrender) there is no place for an appeal. **Impact of the CJEU's case law on 'executing' judicial authority** Does not concern Hungary.

4.1.14. Ireland (IE)

Ireland	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** In Ireland, only the High Court can issue an EAW, which is done on the application of the Director of Public Prosecutions in Ireland. The issuing judicial authority is the High Court. A prosecutor in Ireland cannot issue an EAW themselves. **Public Prosecutor's independence from the executive?** Yes. Section 2 (5) of the Prosecution of offences act 1974 provides as follows: "(5) The Director shall be independent in the performance of his functions". http://www.irishstatutebook.ie/eli/1974/act/22/enacted/en/print.html The Director of Public Prosecutions is not answerable to the Minister or Department of Justice. The office of the Taoiseach (the Prime Minister of Ireland) presents the Public Prosecution Office's financial vote before the Irish parliament. This function is limited to the extent and value of the annual budget provided to the Director of Public Prosecutions in Ireland for the running of her office. Accordingly, there exists no risk from the office of the Director of Public Prosecutions being subject, directly or indirectly, to directions or instructions in a specific case from the executive in connection with the adoption of a decision to issue an EAW. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** Not applicable. **Further relevant information**
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of	**Competent authority to execute EAWs** The High Court. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** **Effective judicial protection/legal remedy?** **Impact of the CJEU's case law on 'executing' judicial authority**

subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	

4.1.15. Italy (IT)

Italy	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** - For the purposes of prosecution: the judges or courts with criminal proceedings pending before them (i.e. the investigative judge in the preliminary (investigative) phase; the single judge or the three judges' panel at trial phase if the national arrest warrant is issued at the trial stage; the Court of Appeal at the appeal phase if the national arrest warrant is issued at that stage). - For the purposes of enforcing a custodial sentence or detention order: the public prosecutor's office for the judge supervising enforcement. **Public Prosecutor's independence from the executive?** According to the Italian Constitution, the Prosecution Office is autonomous (independent) from the executive power and it is integrated into the judicial power. Indeed, the Italian Constitution excludes Public Prosecutors from the sphere of influence of the executive power and places them in their own right in the sphere of independence of the Judicial authority, that is safeguarded by a Superior Council of the Judiciary, whose members are elected to the extent of two thirds by judges and prosecutors, and that has competence in the field of appointments, promotions, transfers and disciplinary proceedings. Under Article 104 of the Constitution "the judiciary is an autonomous and independent order vis a vis any other power". As a result, Public Prosecutors have not only been placed out of the dependence of the Minister of Justice, but they have also obtained the same guarantees as the judges responsible for giving rulings (with whom they share the same career) that protect their professional position from any intrusion of the executive power. Namely, public prosecutors are included in the judicial order and participate of the unified culture of jurisdiction, in the sense that they belong to the same order. Thus, public prosecutors are and must be fully independent. Public Prosecutors enjoy maximum independence with regard to their status. The recruitment, disciplinary proceedings, transfers and promotions of public prosecutors are decided by the Supreme Council of the Judiciary (Article 105 of the Constitution); they are irremovable from their office (Article 107 of the Constitution) and appointed after a public examination (Article 106, paragraph 1 of the Constitution). The functions performed by public prosecutors are those of the judicial order; they ensure compliance with the laws, prompt and regular administration of justice and protection of the rights of the State, legal persons and incapacitated persons; they promote repression of offences by carrying out the necessary investigations; they prosecute offences when investigations show elements capable of supporting charges in the trial phase; they enforce final judgments and any other decision made by judges as provided for by the law. In criminal proceedings Public Prosecutors

	perform the function of the public party by representing the State's general interest and, under Article 112 of the Constitution, have an obligation to initiate public prosecution. From this principle it follows that public prosecution cannot be subject to criteria of political opportunity, or submitted to vetoes or directives adopted by the Government or the Parliament and that the body in charge of public prosecution is in itself as independent vis a vis political conditioning as the judges responsible for giving rulings. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** Taking into account the previous answers, no measures need to be taken. **Further relevant information**  IT_certificate.pdf
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The courts of appeal. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** **Effective judicial protection/legal remedy?** Not applicable. **Impact of the CJEU's case law on 'executing' judicial authority** **Further relevant information** The judgment in Case C-510/19 does not have any impact in the Italian national legal system and does not require any amendment of the legislation.

4.1.16. Latvia (LV)

Latvia	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** In Latvia the Prosecutor General's Office is the only one competent authority to issue EAWs both for the purposes of prosecution and for the execution of custodial sentence. **Public Prosecutor's independence from the executive?** The Latvian national legislation provides a guarantee for independence of the Prosecution office from the executive. The Latvian Prosecutors are not exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific criminal case coming from the executive. According to the Law on Prosecution Office, the Prosecutor shall be independent in his/her activities from any influence of other public and administrative institutions or officials and shall comply only with law. **Effective judicial protection?** A person, subject to an EAW, has a right to appeal the decision on placement of a person in pre-trial custody without any time limits. This could be done even after the issuance of the EAW and the arrest of the said person in the EAW executing State. If the decision on placement of a person in pre-trial custody is revoked, the EAW automatically loses its force as it was based on the validity of the said decision. Any court of a higher instance reviewing an appeal against the decision on placement of a person in pre-trial custody shall also assess the proportionality of the issuing of EAW. In cases when it is not possible to separately appeal against the prosecutor's decision to issue EAW, the conditions for its issuing, including the proportionality, may be examined in court in Latvia prior to or simultaneously with the issuance or after its issuance (in deciding whether to issue an arrest warrant on the basis of which shall be issued the relevant EAW). These aspects were addressed by the CJEU in case C-625/19 and were declared to comply with "effective judicial protection". **Impact of the CJEU's case law on 'issuing' judicial authority** Latvian Prosecutor General's Office and the Latvian prosecutors' competence to issue EAWs is not affected by the CJEU's case-law. **Further relevant information** EAW_Latvia_CJEU_prosecutor (002).pdf
Judicial authorities in the execution phase of EAWs -Role of public	**Competent authority to execute EAWs** The Prosecutor General's Office is competent to execute EAWs. **Please specify if the previous reply is different in case of:**

prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	• **Keeping the requested person in detention (Art. 12 EAW FD)** An investigation judge decides of applying the arrest to person to be extradited. The control of term of arrest is carried out by the investigation judge. • **Requested person's consent to surrender (Art. 13 EAW FD)** A Prosecutor of the Prosecutor General`s Office indicates person's consent to surrender into a protocol with the participation of a sworn advocate.  • **Competing EAWs (Art. 16(1) EAW FD)** A decision in the event of multiple EAW is made by the Prosecutor General`s Office. • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** A decision is made by a Prosecutor of the Prosecutor General`s Office.  • **Hearing the requested person (Art. 19 EAW FD)** The requested person is heard by a Prosecutor of the Prosecutor General`s Office. • **Postponement or temporary surrender (Art. 24 EAW FD)** The decision is made by a Prosecutor of the Prosecutor General`s Office.  • **Disapplication of the rule of speciality (Art. 27 EAW FD)** A Prosecutor of the Prosecutor General`s Office indicates person's consent to disapplication of the rule of speciality into a protocol with the participation of a sworn advocate. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** A decision is made by a Prosecutor of the Prosecutor General`s Office. **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** The Prosecution Office is the independent judicial authority. The decision of the Prosecutor General's Office to extradite person from Latvia to abroad may be appealed at the Supreme Court. **Impact of the CJEU's case law on 'executing' judicial authority** The competence of Prosecutors of the Prosecutor General's Office to execute EAWs is not affected by the CJEU's case-law.

4.1.17. Lithuania (LT)

Lithuania	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** For the purpose of prosecution, the issuing authority is the Office of the Prosecutor General. For the purpose of execution of a sentence, the issuing authority is the Regional Court (Article 69^1 Criminal Procedure Code of Lithuania). **Public Prosecutor's independence from the executive?** The independence of the Lithuanian Prosecutor's Office from the executive was considered by the CJEU in case C-509/18. The CJEU stated that the Prosecutor General of Lithuania may be considered to be an 'issuing judicial authority', within the meaning of Article 6(1) of Framework and its position in the national judicial system affords it a guarantee of independence from the executive in connection with the issuing of an EAW (para. 56). **Effective judicial protection?** According to the provisions of the Criminal Procedure Code of Lithuania (Article 69^1 (1), Article 130 (1) and Article 63), the issuing of an EAW warrant is always substantiated by a court order (judgement) and the EAW is issued on the basis of such national court order. The Lithuanian law also provides for a possibility to the person concerned to appeal the court order before a higher court. In addition, the Lithuanian criminal procedure law provides for a possibility to the person concerned of lodging an appeal against the procedural actions of coercion and decisions taken by the prosecutor. The appeal could be made to a higher Prosecutor's office and if the higher Prosecutor's office dismisses the appeal, the matter could be brought before a pre-trial investigative judge. The Criminal Procedure Code of Lithuania (Article 51 and Article 71^1) also ensures the procedural rights of the person subject to an EAW (e.g. right to a defence counsel and right to interpretation). **Impact of the CJEU's case law on 'issuing' judicial authority** In accordance to the CJEU judgment of 27 May 2019, PF, C-509/18 PPU, the Lithuanian Prosecutor General's Office is competent to issue an EAW and so it's not affected by the CJEU case-law.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or	**Competent authority to execute EAWs** The competent authority to execute EAWs is Vilnius County Court while the competent authority to receive an EAW is the Office of the Prosecutor General. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)**

temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	• **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** With regards to Article 27 EAW FD, the consent is given by the Office of the Prosecutor General but is afterwards approved by the ruling of Vilnius County Court. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** **Impact of the CJEU's case law on 'executing' judicial authority**

4.1.18. Luxembourg (LU)

Luxembourg	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** For the purposes of conducting a criminal prosecution, the EAW is issued or by an investigating judge or by a court (depending on the stage of the proceedings). For the execution of a custodial sentence, the EAW is issued by the Prosecutor General. **Public Prosecutor's independence from the executive?** EAWs are issued by a public prosecutor (i.e. the Prosecutor General) only in the framework of the execution of custodial sentences. The national law on the organisation of the judiciary provides that the function of public prosecution belong to the Prosecutor General, under the authority of the Minister of Justice. This provision, however, does not apply to particular cases or the execution of individual custodial sentences. In accordance to the Criminal proceedings code of Luxembourg (Article 19), it is foreseen that the Minister of Justice can require the Prosecutor general to initiate proceedings, but not to prevent or stop them. This provision is not applicable to the execution of custodial sentences. Additionally, the provision has never been invoked in practices. Luxembourg, however, foresees legislative changes to enact the independence of the Prosecutor's Office – additional provision in the Constitution, changes in the Criminal Procedure Code and the Law on the organization of the judiciary. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** The issuing authorities in Luxembourg are not affected by the CJEU's case-law but changes in the national laws are foreseen.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition.	**Competent authority to execute EAWs** The public prosecutor's office, the examining magistrate and the pre-trial chamber at the relevant district court and, on appeal, the Chief Public Prosecutor and the pre- trial chamber at the Luxembourg High Court. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?**

-Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	See above. **Effective judicial protection/legal remedy?** On the basis of Article 698 of the Code of Criminal Procedure, there is a possibility for appeal to the Sentence Enforcement Chamber ("chamber de l'application des peines") which is a chamber at the Luxembourg High Court. **Impact of the CJEU's case law on 'executing' judicial authority**

4.1.19. Malta (MT)

Malta	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** In Malta, the only authority that can issue an EAW is the Court of Magistrates. The Attorney General is the designated central authority. **Public Prosecutor's independence from the executive?** Not applicable- In Malta's case, the authority issuing an EAW is always the Court. **Effective judicial protection?** Not applicable given that the decision on whether to issue/execute is always taken by the Court. **Impact of the CJEU's case law on 'issuing' judicial authority** The case law of the CJEU on this concept has not affected the definition of 'issuing authority' under Maltese law.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The Court of Magistrates (Malta), in EAW proceedings, referred to as the Court of Committal. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** Same reply applies as above. **Public Prosecutor's independence from the executive?** The Office of the Attorney General which fulfils the role of Public Prosecutor in Malta, is the designated central authority, however, it does not have the power to execute EAWs. This is only done by the Court. **Effective judicial protection/legal remedy?** Not applicable as EAW is executed by the Court. **Impact of the CJEU's case law on 'executing' judicial authority** No impact as the executing judicial authority has always been the Court of Magistrates.

4.1.20. The Netherlands (NL)

The Netherlands	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** The investigative judge is competent to issue EAWs. **Public Prosecutor's independence from the executive?** Not independent enough according to the ruling of the CJEU as the Ministry of Justice may direct the prosecutor in individual cases (publicly announced, never occurred since 1997). **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** As a consequence of the case-law of the CJEU, the Dutch Surrender of Persons Act was amended and entered into force on 13.07.2019 (see attached certificate next section). Since that date the investigative judge on request of the prosecutor is issuing the EAW. **Further relevant information** NL_certificate.pdf ST14979.XX19.DOCX
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The competent executing authorities are the Amsterdam District Court, the examining magistrate, responsible for criminal cases at the Amsterdam District Court and the public prosecutor at the Amsterdam District Public Prosecutor's Office. No ex-officio review or endorsement of a court. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** The authority to consent to disapply the rule of speciality (Article 27 EAW FD) is the Public Prosecutor. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** If no specific remedy against a decision of a public prosecutor, pursuant to the Surrender Act or the Code of Criminal Procedure is

	available, a remedy in civil law against the State can always be obtained. **Impact of the CJEU's case law on 'executing' judicial authority** Current legislation is under revision and will be amended.

4.1.21. Poland (PL)

Poland	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** In accordance with Article 607a of the Polish Code of Criminal Procedure, the competent authority to issue an EAW is the local Circuit Court, following a motion from a public prosecutor or on a motion of a competent district court in court and enforcement proceedings. **Public Prosecutor's independence from the executive?** Not applicable – the body issuing an EAW is always a court. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** The CJEU judgement did not affect PL procedures related to EAW.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The competent authority to execute an EAW is the circuit court having territorial jurisdiction. Certain circuit Prosecutors' Offices having territorial jurisdiction are competent to receive EAWs. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** The authority to consent to disapply the rule of speciality (Article 27 EAW FD) is the circuit court having territorial jurisdiction. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** Not applicable. **Impact of the CJEU's case law on 'executing' judicial authority** The judgment in Case C-510/19 does not influence national legislation as in Poland only courts are executing EAWs.

4.1.22. Portugal (PT)

Portugal	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** The competent authorities in Portugal to issue an EAW are public prosecutors in the preliminary (investigative) phase of the proceedings and judges during the subsequent procedural phases. **Public Prosecutor's independence from the executive?** According to the Portuguese Constitution, Prosecution Office is autonomous (independent) from the executive power and is integrated into the judicial power. Prosecutors are not exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific criminal case coming from the executive. The Portuguese Public Prosecution Statute is established by a Parliamentary Law and the powers conferred to the MoJ don't include the possibility for issuing general or concrete instructions to the Prosecutors in criminal cases. **Effective judicial protection?** In Portugal, there is no separate right to appeal against the decision of issuing an EAW for the purpose of prosecution. However, there are several procedural safeguards concerning the decision of issuing an EAW by the prosecutor, namely: - an EAW (as any internal arrest warrant) can only be issued in cases where there is strong evidence of crimes punished with imprisonment for a term of 5 years, or exceeding 3 years- in cases of violent crime; - Strict conditions for coercive measures: Evasion or danger of evasion; risk of disturbing the normal course of the inquiry or the investigative stage and risk, due to the nature and circumstances of the offence or of the defendant's personality; - Strict conditions to issue an EAW: well-founded reasons to believe that the person subject to the warrant would not willingly present himself/herself before the competent judiciary authority if summoned, detention is the only coercive measure adequate or detention is essential to the protection of victim´s rights; - Right to a lawyer; - Right to appear before a judge within 48h following the surrender. **Impact of the CJEU's case law on 'issuing' judicial authority** The judgment of March 2021 in case C-648/20 PPU *PI* might have an impact on Portugal in cases where the public prosecutor is the issuing authority of the EAW and of the underlying national arrest warrant. The impact of this judgment is now being assessed at national level.
Judicial authorities in the execution phase of EAWs -Role of public	**Competent authority to execute EAWs** The competent authority to execute an EAW is Court of Appeal. EAW's should be sent to the public prosecutor attached to the criminal section of these Courts that will bring the case for execution

prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	by the Judges. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** There is no difference in the reply since all decisions pertaining to the situations mentioned above are taken by Judges as well. **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** Since all decisions during the execution procedure of EAWs in Portugal are taken by Judges they can all be appealed. **Impact of the CJEU's case law on 'executing' judicial authority** At the moment, no need to introduce changes in the national law since, in the Portuguese system, EAWs are executed only by Judges.

4.1.23. Romania (RO)

Romania	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** The competent authorities in Romania to issue EAWs are the courts. According to According to Article 88 (3) of Law no.302/2004) EAWs shall be issued: - during the prosecution stage, by the court having issued the provisional arrest warrant, ex officio or upon the notification by the prosecutor conducting or supervising criminal prosecution against the requested person; - during the trial stage, by the court dealing with the case, ex officio or upon the notification by the prosecutor or the authority in charge of the enforcement for the provisional arrest warrant or the decision imposing the custodial measure; - in the service stage, by the executing court, ex officio or upon notification by the prosecutor or the authority in charge of the enforcement for the detention order in relation to life detention or imprisonment or the decision imposing the custodial measure. **Public Prosecutor's independence from the executive?** The prosecutors are independent. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** Not applicable.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court)	**Competent authority to execute EAWs** The competent authority to execute an EAW is Court of Appeal. Minister of Justice and the prosecutor's offices attached to the courts of appeal are competent to receive a EAW. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** No – all the above mentioned measures are ordered by the court. **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** The decisions ordering the arrest of the sought person and the

-Independence -Effective judicial protection/legal remedy	decision on the execution of the EAW can be appealed. **Impact of the CJEU's case law on 'executing' judicial authority** None.

4.1.24. Slovakia (SK)

Slovakia	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Only a judge is competent to issue an EAW. In the preliminary proceedings a judge can issue an EAW upon a petition of a prosecutor. **Public Prosecutor's independence from the executive?** According to the Slovak law, the Prosecutor´s Office is independent from the executive. Prosecutors are not exposed to the risk of being subject to directions or instructions from the executive in any case. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** The Slovak Republic is not affected by the CJEU´s judgement in question.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The competent authority to execute an EAW is the territorially competent Regional Prosecutor's Office. The competent executing judicial authority for initiating the surrender proceedings in the Slovak republic is the respective Regional Prosecutors office in which jurisdiction the affected person was detained. However, the only possibility when the competent Regional Prosecutors office can decide on surrender of a person on basis of the EAW is if the aforementioned person consented with his/her surrender. In all the other cases of surrender proceedings, the decisions of prosecutor are reviewable by the court. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** The competent authority for giving the consent for the purpose of disapplying the rule of speciality is the competent executing judicial authority, which decided about the execution of the EAW. If the competent prosecutors office decided about the execution of the EAW, it shall also decide under Article 27(3)(g) and 27(4) FD. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above.

	Effective judicial protection/legal remedy? The decision of a prosecutor is not subject to a legal remedy. Before the decision is taken, the competent prosecutor shall instruct the person on which the EAW was issued, about the possibility to express the content with surrender and shall also inform about consequences of such an action. The prosecutor shall also instruct the aforementioned person that a consent with surrender cannot be withdrawn. In the next step, the prosecutor shall instruct the aforementioned person about the possibility of renounce the rule of speciality and about the consequences of such an action. All legally required instructions are given to the aforementioned person in a written form and also the translation is provided. If the aforementioned person agrees with the surrender, and all the requirements are met, the competent prosecutor shall issue the decision about the execution of the EAW. This decision shall include information about the aforementioned person, information about the right of defence as well as consent with surrender and the statement regarding the rule of speciality. **Impact of the CJEU's case law on 'executing' judicial authority** The executing authority of the Slovak Republic should not be affected by the judgment of CJEU as the Prosecutors Office of the Slovak Republic is an independent institution by the definition included in the CJEUs judgment. Therefore an amendment of the relevant national legislation is not presumed.

4.1.25. Slovenia (SI)

Slovenia	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** Competence for issuing of EAW is bestowed on the court. This is defined in Art. 42 of Cooperation in Criminal Matters with the Member States of the European Union Act (ZSKZDČEU-1): "(1) The national court conducting criminal proceedings, or the national court having jurisdiction for executing a sentence, shall issue a warrant". **Public Prosecutor's independence from the executive?** Given that prosecutors are not competent for issuing of EAW, the question is not relevant for Slovenia. The role and functional independence of prosecutors in Slovenia was clarified by the Constitutional Court. In judgement No. U-I-42/12 Constitutional Court has confirmed that prosecutors as well as prosecutor offices in Republic of Slovenia are independent. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** The case-law does not affect Slovenia, because prosecutors are not the issuing authority for EAW (this competence is reserved for courts). **Further relevant information** In our view, issuing authorities of the countries, whose system was found wanting by the CJEU, should do their utmost to make the processing of such EAW by executing authorities as easy and as smooth as possible. Administrative onus/burden regarding the validity of EAWs should not be pushed to executing authorities. EAWs are issued primarily in the interest of the authorities of the issuing country and, consequently, they should, as a matter of principle, inform the authorities of the executing country accordingly and supply them promptly with any supplemental documentation and any relevant subsequent decisions of the bodies deemed competent by the standards set by the CJEU.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or	**Competent authority to execute EAWs** The competent authorities to execute EAWs are the District Courts. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)**

temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	• **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** Not applicable. **Impact of the CJEU's case law on 'executing' judicial authority** No.

4.1.26. Spain (ES)

Spain	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** In accordance with Article 35 (1) of the Spanish Mutual Recognition Law 23/2014, only Investigating judges/Courts are entitled to issue a EAW for the purpose of prosecution when all the requisites for a national arrest warrant concur and always upon a request of the Prosecutor in charge of the case (Art. 39 (1) and (3) of the Law 23/2014). So, Judges and Courts ultimately take the decision to issue a EAW. **Public Prosecutor's independence from the executive?** The PPO in Spain is a constitutional body, with legal personality and incorporated with functional autonomy within the judiciary in accordance with Article 124 of the Constitution -under the title of the Judicial Power-, and Article 2 (1) of the Law on the Organic Statute of the Public Prosecutors (Law 50/1981 as amended by law 24/2007). In addition, the above mentioned provisions state that the Public Prosecutor has the mission of promoting justice in defence of the law, the rights of the citizens and the general interest as well as ensuring the independence of the Courts. According to the constitutional and legal provisions mentioned above, the executive is NOT entitled to issue orders to the PPO. **Effective judicial protection?** As regards the double level of protection of the rights of the person concerned, the Spanish issuing judicial authority reviews, in the light of the particular circumstances of each case, whether the EAW is proportionate or not upon a request of the Prosecutor who is also legally obliged to ensure respect for the rights of the persons concerned. In addition, Article 13 (1) of the Mutual Recognition Code in Spain provides, in general terms, that legal remedies foreseen in the Penal Procedure Code apply to any EAW issued in criminal proceedings. Appeals are made before the corresponding Chamber, composed of three magistrates. **Impact of the CJEU's case law on 'issuing' judicial authority** Spain, as issuing Member State, is NOT affected by the CJEU's judgments. **Further relevant information**  ES_certificate.pdf
Judicial authorities in the execution phase of EAWs	**Competent authority to execute EAWs** Competent judicial executing authority: the Central Investigative

-Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	Judge at the National High Court (Audiencia Nacional). Where the warrant relates to a minor, the Central Juvenile Court Judge at the Audiencia Nacional will be competent. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** • **Hearing the requested person (Art. 19 EAW FD)** • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** The executing authority for all these cases mentioned above is also the Central Investigative Judge of the Audiencia Nacional. Before deciding, the Central Examining Judge must hear the Public Prosecutor and the requested person, assisted by a lawyer. (Article 60 of Law 23/2014 of 20 November on the mutual recognition of criminal decisions in the European Union). **Public Prosecutor's independence from the executive?** See above **Effective judicial protection/legal remedy?** Article 24 (1) of the Mutual Recognition Code in Spain provides, in general terms, that legal remedies foreseen in the Penal Procedure Code apply to any mutual recognition instruments executed in Spain. Appeals are made before the Chamber of the Audiencia Nacional, composed of three magistrates. **Impact of the CJEU's case law on 'executing' judicial authority** Spain, as executing Member State, is NOT affected by the CJEU's judgments.

4.1.27. Sweden (SE)

Sweden	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** In Sweden a prosecutor is competent to issue an EAW after a court decision on detention. **Public Prosecutor's independence from the executive?** Chapter 12 Section 2 of the Instrument of Government (the Constitution of Sweden) states that no public authority (government) nor the Swedish parliament may influence or determine how an authority shall decide an individual case, nor how a rule of law is to be applied. A prosecutor is completely independent and free to make his or her own decisions. Thus, a Swedish Prosecutor is not exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as a Minister for Justice, in connection with the adoption of a decision to issue a European arrest warrant. This means that the European Court of Justice's judgments of 27 May 2019 in the cases C-508/18, 509/18 and C-82/19 does not affect the Swedish prosecutor's competence to issue European Arrest Warrant. In addition, the prosecutor's head (superior) or the authority itself is not permitted to issue directives on how a specific case is to be handled or what is to be decided in that case. In Sweden, the role of the prosecutor has been devised so that the prosecutor has a central and independent role throughout the investigation process and legal proceedings in court. The prosecutor's independence is especially important with regard to the leading of criminal investigations and the taking of judicial decisions. It is the prosecutor, not the authority where he or she is employed, who takes decisions regarding whether legal proceedings are to be taken. It is the prosecutor who participates in court proceedings. The role of prosecutor is thereby exerted by an identifiable person with a personal responsibility. A prosecutor has the right to decide whether a suspect is to be detained. The detaining of a person must be reported to a court within three days in order for the detention to be examined. **Effective judicial protection?** The Swedish legal system contains procedural rules that allow for the proportionality of the decision of the public prosecutor to issue an EAW to be judicially reviewed before, or practically at the same time as, that decision is adopted, but also subsequently. According to the CJEUs ruling in C- 625/19 the Swedish system satisfies the requirement of effective judicial protection. The Swedish legal system also guarantee the right to a lawyer during the criminal proceeding in general, this also includes the court proceedings adopting the national decision that may subsequently constitute the basis of the EAW.

	Impact of the CJEU's case law on 'issuing' judicial authority No impact on the competence of the Swedish prosecutors to issue EAWs. A certificate on the Swedish prosecutor being a judicial authority has been issued and signed by the Temporary Deputy Prosecutor-General, Ms Marie-Louise Ollén. **Further relevant information**  SE_certificate.pdf
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Competent authority to execute EAWs** The competent authority to execute an EAW is the public prosecutor and courts. The public prosecutor is only competent to decide that a European arrest warrant shall not be executed in cases where the issuing judicial authority does not provide the information necessary to assess whether the European arrest warrant should be executed. Ordinary courts always decide on the question of surrender and other related issues. **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 12 EAW FD)** • **Requested person's consent to surrender (Art. 13 EAW FD)** Consent to surrender is given before a prosecutor. • **Competing EAWs (Art. 16(1) EAW FD)** • **Decision to hear the requested person or to their temporary transfer (Art. 18 EAW FD)** The decision to agree to that the requested person is heard, is taken by a prosecutor. The decision on temporary transfer is taken by a Court. • **Hearing the requested person (Art. 19 EAW FD)** See above. • **Postponement or temporary surrender (Art. 24 EAW FD)** • **Disapplication of the rule of speciality (Art. 27 EAW FD)** The authority to consent to disapply the rule of speciality (Article 27 EAW FD) is the court. Sweden does not grant the consent referred to in Art. 27(1) to prosecution, sentencing or detention for another offence committed prior to surrender from Sweden. • **Consent to subsequent surrender/extradition (Art. 28(3) EAW FD)** **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** See above. **Impact of the CJEU's case law on 'executing' judicial authority** No.

4.2. Overview of responses by Norway, Iceland and the United Kingdom

4.2.1. Norway (NO)

Norway	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** The regional public prosecutors can issue an AW in Norway, a prerequisite is that the court has issued a warrant/order for somebodies arrest. The Norwegian Criminal Procedure Act section 175 states that "A decision to arrest may be made by the court if the suspect is staying abroad and the prosecuting authorities wishes to apply for his extradition, ...". The same goes for surrender. The same is also reflected in the Act on arrest and surrender to and from Norway in criminal matters on the cases of an arrest warrant, section 32. Be aware that we under Norwegian legislation have prosecutors both within the police and in regional offices. The regional ones are the police prosecutors superior. It is solely the regional public prosecutors that can take the ultimately decision to issue an AW. **Public Prosecutor's independence from the executive?** The Criminal Procedure Act section 55 states clearly that the Prosecution Authority is independent in a specific case. No one can instruct the Prosecution Authority in a specific case or reverse a procedural decision. **Effective judicial protection?** Under Norwegian legislation, the court issues a national arrest warrant, always including an assessment of proportionality of the arrest. A court decision is a prerequisite for the regional public prosecutor to issue an AW. The suspect will have the right of access to a lawyer in criminal proceedings and AW proceedings. The suspect / arrested person can request the court to reverse the decision on the national arrest warrant once arrested. **Impact of the CJEU's case law on 'issuing' judicial authority** New legislation was adopted to meet the requirement on independence, more specifically the change in The Criminal Procedure Act section 55, mentioned above. It new legislation entered into force 1 November 2019. **Further relevant information** The Director of Public Prosecution issued 2 December 2019 a Certificate stating that the Prosecuting Authority is independent.  Declaratic
Judicial authorities in the execution phase of EAWs -Role of public	**Competent authority to execute AWs** The regional public prosecutors can decide upon the execution of AW´s, prerequisite that the court has found the terms for the execution fulfilled.

prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	**Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 15 EU-IS-NO Agreement)** The Court • **Requested person's consent to surrender (Art. 16 EU-IS-NO Agreement)** The consent to surrender must be stated directly to the court • **Competing EAWs/AWs (Art. 19 EU-IS-NO Agreement)** Competing AW´s within EU-NO-IS will be decided upon by the regional public prosecutor. Competing AW`s and requests for extradition (from outside EU-IS-NO) will be decided upon by MoJ • **Decision to hear the requested person or to their temporary transfer (Art. 21 EU-IS-NO Agreement)** • **Hearing the requested person (Art. 22 EU-IS-NO Agreement)** regional public prosecutor • **Postponement or temporary surrender (Art. 27 EU-IS-NO Agreement)** The regional public prosecutor or MoJ • **Disapplication of the rule of speciality (Art. 30 EU-IS-NO Agreement)** regional public prosecutor and court • **Consent to subsequent surrender/extradition (Art. 31(3) EU-IS-NO Agreement)** MoJ **Public Prosecutor's independence from the executive?** **Effective judicial protection/legal remedy?** **Impact of the CJEU's case law on 'executing' judicial authority** **Further relevant information**

4.2.2. Iceland (IS)

Iceland	
Judicial authorities in the issuing phase of EAWs -The Derector of Public prosecution -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** The Director of Public Prosecution (DPP) can issue an EAW in Iceland. The DPP can order the arrest of a suspect. Longer detention is decided by the courts. The EAW issued by the DPP is always accompanied by an arrest warrant issued by an Icelandic court to fulfil the expected requirements of the receiving state. **Public Prosecutor's independence from the executive?** The DPP is independent from the executive. In the law on criminal justice art. 18 paragraph 2: "The role of prosecutors is to ensure, in cooperation with the police, that those who commit crimes are subject to statutory sanctions. They do not accept instructions from other authorities on the handling of the prosecution unless specifically provided for by law." The DPP is completely independent in a specific case and in general in its decision-making. No one can instruct the Prosecution Authority in a specific case or reverse a procedural decision. **Effective judicial protection?** The Icelandic legal system contains procedural rules that allow for the proportionality and legality of the decision of the DPP to execute an EAW, to be judicially reviewed before, or practically at the same time as, that decision is adopted. The Icelandic legal system also guarantee the right to a lawyer during the criminal proceeding in general, this also includes the court proceedings evaluating the decision of the DPP to execute an EAW. **Impact of the CJEU's case law on 'issuing' judicial authority** There are no impact from the CJEU´s case law in that matter. **Further relevant information** N/A
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the speciality rule	**Competent authority to execute AWs** The Director of Public Prosecution **Please specify if the previous reply is different in case of:** • **Keeping the requested person in detention (Art. 15 EU-IS-NO Agreement)** Detention is decided by the courts on the request of the DPP • **Requested person's consent to surrender (Art. 16 EU-IS-NO Agreement)** Then there are no court involvement in that process. The process is in the hands of the DPP. Consent is given in the presence of a defence lawyer, before the police acting in under orders from the DPP and in writing.

-consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	• **Competing EAWs/AWs (Art. 19 EU-IS-NO Agreement)** • **Decision to hear the requested person or to their temporary transfer (Art. 21 EU-IS-NO Agreement)** • **Hearing the requested person (Art. 22 EU-IS-NO Agreement)** • **Postponement or temporary surrender (Art. 27 EU-IS-NO Agreement)** • **Disapplication of the rule of speciality (Art. 30 EU-IS-NO Agreement)** • **Consent to subsequent surrender/extradition (Art. 31(3) EU-IS-NO Agreement)** The Director of Public Prosecution is the competent authority in all above. **Public Prosecutor's independence from the executive?** See above **Effective judicial protection/legal remedy?** The suspect can ask the district court to rule on the legality of the decision of the DPP to execute the EAW. **Impact of the CJEU's case law on 'executing' judicial authority** **Further relevant information**

4.2.3. United Kingdom (UK)

United Kingdom	
Judicial authorities in the issuing phase of EAWs -Public prosecutor/court -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence public prosecutor -Effective judicial protection/legal remedy	**Competent issuing judicial authority?** The UK no longer participates in the European Arrest Warrant. In the UK, an arrest warrant under the Trade and Cooperation Agreement with the EU is issued by the relevant court on application by a prosecutor or other designated authority. The judicial authorities competent by virtue of the domestic law of the United Kingdom to issue an arrest warrant under the Trade and Cooperation Agreement between the UK and the EU are: a) for requests made by England and Wales, a District Judge (Magistrates' Courts); a justice of the peace or a judge entitled to exercise the jurisdiction of the Crown Court; b) for Scotland, a sheriff; c) for Northern Ireland, a lay magistrate or District Judge (Magistrates'_Courts) or a Crown Court judge. **Public Prosecutor's independence from the executive?** The UK has three public prosecution services (the Crown Prosecution Service covering England and Wales, the Crown Office and Procurator Fiscal Service covering Scotland and the Public Prosecution Service for Northern Ireland covering Northern Ireland). All bodies are entirely independent of the executive. As a common law system, much of this independence is uncodified and based on the system of custom and precedence. However, the Prosecution of Offences Act 1985 that set up the Crown Prosecution Service and the Justice (Northern Ireland) Act 2002 which set up the Public Prosecution Service for Northern Ireland guarantee their independence from the executive. The executive has no powers to issue instructions to issue an EAW. **Effective judicial protection?** Not applicable. **Impact of the CJEU's case law on 'issuing' judicial authority** CJEU case-law does not apply in the UK.
Judicial authorities in the execution phase of EAWs -Role of public prosecutors/courts in relation to: -executing an EAW (with/without the requested person's consent); -deciding on competing EAWs; -deciding on postponement or temporary surrender; -consenting to dis-apply the	**Competent authority to execute AWs** The UK no longer participates in the European Arrest Warrant. The authorities competent by virtue of the domestic law of the United Kingdom to execute an arrest warrant under the Trade and Cooperation Agreement between the UK and the EU are: a) in England and Wales, a District Judge (Magistrates' Courts) designated by the Lord Chancellor; b) in Scotland, the sheriff of Lothian and Borders; and c) in Northern Ireland; a county court judge or resident magistrate designated by the Lord Chancellor. **Please specify if the previous reply is different in case of:**

speciality rule -consenting in a case of subsequent surrender/extradition. -Entity that ultimately takes the decision (e.g. ex-officio review/endorsement by a court) -Independence -Effective judicial protection/legal remedy	The judicial authorities listed above are competent to make the following decisions: • **Keeping the requested person in detention (Art. LAW.SURR.90 TCA)** • **Requested person's consent to surrender (Art. LAW.SURR.91 TCA)** • **Competing EAWs/AWs (Art. LAW.SURR.94 TCA)** • **Decision to hear the requested person or to their temporary transfer (Art. LAW.SURR.96 TCA)** • **Hearing the requested person (Art. LAW.SURR.97 TCA)** • **Postponement or temporary surrender (Art. LAW.SURR.102 TCA)** • **Disapplication of the rule of speciality (Art. LAW.SURR.105 TCA)** • **Consent to subsequent surrender/extradition (Art. LAW.SURR.106 TCA)** In cases where an Arrest Warrant under the Trade and Cooperation Agreement competes with an extradition request from a third country not participating in that Agreement, the decision is made by the Secretary of State (the Executive). The Secretary of State's decision on that matter can be judicially reviewed. **Public Prosecutor's independence from the executive?** See above. **Effective judicial protection/legal remedy?** **Impact of the CJEU's case law on 'executing' judicial authority** CJEU case-law does not apply in the UK.