

Amendment 2**Gwendoline Delbos-Corfield**

on behalf of the Verts/ALE Group

Report**A9-0248/2020****Javier Zarzalejos**European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))**Motion for a resolution****Paragraph 5***Motion for a resolution*

5. Points out that the EAW **should** be enhanced and improved to render it more effective, immediate and respectful of national courts' decisions, while respecting proportionality, **as one of the aims of** a stronger Union requires that Member States trust the legal systems and prison systems of other Member States, for which this mechanism is essential; recalls that any weakening of mutual recognition in criminal matters can **only** lead to its weakening in other areas, which would be prejudicial to tackling common policies, such as the internal market, effectively;

Amendment

5. Points out that the EAW **could** be enhanced and improved to render it more effective, immediate and respectful of national courts' decisions, while respecting proportionality; **recalls, however, that the EAW cannot be assessed in isolation, and believes that** a stronger Union requires that Member States **apply the principle of mutual recognition in such a way that it does not result in a deviation from Member States' responsibilities in protecting individuals' fundamental rights and upholding the rule of law, thereby achieving enhanced** trust in the legal systems and prison systems of other Member States, for which this mechanism is essential; recalls that any weakening of mutual recognition in criminal matters can lead to its weakening in other areas, which would be prejudicial to tackling common policies, such as the internal market, effectively; **further recalls that the aim of the minimum criminal procedural safeguards laid down in the Procedural Rights Directives is to ensure a fair trial; highlights that the right to a fair trial is of cardinal importance as a guarantee that the fundamental rights of individuals and the rule of law are safeguarded; considers that procedural rights compliance should be a precondition for executing any EAW and recalls that increased safeguards are needed to prevent the abuse of EAWs;**

Amendment 3**Gwendoline Delbos-Corfield**

on behalf of the Verts/ALE Group

Report**A9-0248/2020****Javier Zarzalejos**European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))**Motion for a resolution****Paragraph 7***Motion for a resolution*

7. Underlines that the EAW should not be ***misused*** for minor offences, ***where grounds for pre-trial detention do not exist***; recalls that use of the EAW should be limited to serious offences where it is strictly necessary and proportionate; urges the use of less intrusive legal instruments where possible before an EAW is issued, such as the EIO; points out that issuing authorities should carry out proportionality checks, ***taking*** into account (i) the seriousness of the offence, (ii) the likely penalty imposed if the person is found guilty of the alleged offence, (iii) the likelihood of detention of the person in the issuing Member State after surrender, (iv) the impact on the rights of the requested person and his or her family, and (v) the interests of the victims of the offence; calls on Member States and their judicial authorities to process EAW cases without undue delay once an EAW has been issued, in order to keep pre-trial detention to a minimum;

Amendment

7. Underlines that the EAW should not be ***used*** for minor offences ***or for purposes that do not necessarily require people to be detained, such as the initial questioning of suspects and pre-trial questioning***; recalls that use of the EAW should be limited to serious offences where it is strictly necessary and proportionate; urges the use of less intrusive legal instruments where possible before an EAW is issued, such as the EIO; points out that issuing authorities should carry out proportionality checks ***that involve a right to challenge the issuing of the EAW before surrender is ordered to prevent violations of fundamental rights from occurring before any ex post remedy becomes available, and that take*** into account (i) the seriousness of the offence, (ii) the likely penalty imposed if the person is found guilty of the alleged offence, (iii) the likelihood of detention of the person in the issuing Member State after surrender, (iv) the impact on the rights of the requested person and his or her family, and (v) the interests of the victims of the offence; calls on Member States and their judicial authorities to process EAW cases without undue delay once an EAW has been issued, in order to keep pre-trial detention to a minimum;

Amendment 4
Gwendoline Delbos-Corfield
 on behalf of the Verts/ALE Group

Report
Javier Zarzalejos
 European Arrest Warrant and surrender procedures between Member States
 (2019/2207(INI))

A9-0248/2020

Motion for a resolution
Paragraph 8

Motion for a resolution

8. Highlights that according to the CJEU, the refusal to execute an EAW is an exception to mutual recognition and must be interpreted strictly³⁵ where one of the grounds for non-recognition (Articles 3 and 4 of Framework Decision 2002/548/JHA) or one of the guarantees (Article 5 of the same) applies or in accordance with CJEU case law;

³⁵ See, for example, CJEU, C-216/18 PPU, *Minister for Justice and Equality*.

Amendment

8. Highlights that according to the CJEU, the refusal to execute an EAW is ***intended to be*** an exception to mutual recognition and must be interpreted strictly³⁵ where one of the grounds for non-recognition (Articles 3 and 4 of Framework Decision 2002/548/JHA) or one of the guarantees (Article 5 of the same), ***as well as the obligation to respect fundamental rights (Article 1(3) of the same)***, applies or in accordance with CJEU case law; ***notes that the executing judicial authority has the power to refrain from giving effect to an EAW where surrender may result in the requested person being subject to inhuman or degrading treatment (Article 4 of the Charter)^{1a} or where there is a real risk of a breach of the fundamental right to an independent tribunal and, therefore, of the right to a fair trial (Article 47(2) of the Charter)^{1b}***;

^{1a} ***Case CJEU, C-216/18 PPU, Minister for Justice and Equality.***

^{1b} ***Cases CJEU C-404/15 and C-659/15 PPU, Aranyosi and Căldăraru.***

³⁵ See, for example, CJEU, C-216/18 PPU, *Minister for Justice and Equality*.

Or. en

Amendment 5**Gwendoline Delbos-Corfield**

on behalf of the Verts/ALE Group

Report**A9-0248/2020****Javier Zarzalejos**European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))**Motion for a resolution****Paragraph 11***Motion for a resolution**Amendment*

11. Believes that further horizontal measures need to be adopted to enhance the principle of sincere cooperation as enshrined in Article 4(3) of the TEU and to increase mutual trust in national criminal justice systems, thereby leading to more efficient judicial cooperation; points out that a double criminality check ***limits*** mutual recognition and, according to the CJEU, must be interpreted restrictively; emphasises, however, that there are ongoing concerns about the lack of a proper definition of criminal offences to which the double criminality rule no longer applies; notes that mutual recognition should ***ideally*** work automatically³⁷ ***without reassessment of the substantial grounds for accusation and that decisions should not be refused unless there are the reasons to invoke one of the grounds for refusal exhaustively listed in the EAW Framework Decision or unless other circumstances, as recognised by the CJEU, justify placing limitations on the principles of mutual recognition and mutual trust between Member States;***

11. Believes that further horizontal measures need to be adopted to enhance the principle of sincere cooperation as enshrined in Article 4(3) of the TEU and to increase mutual trust in national criminal justice systems, thereby leading to more efficient judicial cooperation; points out that a double criminality check, ***although necessary to ensure that the fundamental rights of individuals are fully respected, is considered to limit*** mutual recognition and, according to the CJEU, must be interpreted restrictively; emphasises, however, that there are ongoing concerns about the lack of a proper definition of criminal offences to which the double criminality rule no longer applies; notes, ***however***, that mutual recognition should ***not*** work automatically³⁷ ***given the increasing deficiencies as regards the rule of law in some Member States, but requires an assessment of each case by the executing authority; further notes that a double criminality check is necessary given the absence of fully harmonised substantial criminal law as well as the absence of minimum procedural standards;***

³⁷ See, for example, the Commission communication of 26 July 2000 on the Mutual Recognition of Final Decisions in

³⁷ See, for example, the Commission communication of 26 July 2000 on the

Criminal Matters (COM(2000)0495).

Mutual Recognition of Final Decisions in
Criminal Matters (COM(2000)0495).

Or. en

13.1.2021

A9-0248/6

Amendment 6

Gwendoline Delbos-Corfield

on behalf of the Verts/ALE Group

Report

A9-0248/2020

Javier Zarzalejos

European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))

Motion for a resolution

Paragraph 14

Motion for a resolution

Amendment

14. Highlights *the importance of assessing the inclusion of additional offences or categories* of offences such as environmental crimes (e.g. ship-source pollution offences), certain forms of tax evasion, *hate crimes*, sexual abuse, gender-based violence, offences committed through digital means such as identity theft, *offences involving the use of violence or a serious threat against public order of the Member States and crimes against the constitutional integrity of the Member States committed by using violence*, crimes of genocide, crimes against humanity and war crimes *in the framework of an enhance commitment to judicial cooperation*, the rule of law and fundamental rights by Member States; *stresses that closer judicial cooperation regarding offences of this nature would help the Union to achieve its own priority objectives, while at the same time strengthening the notion of respect for democracy and rule of law in the Union;*

14. Highlights *that the cross-border dimension of an increased number of* offences such as environmental crimes (e.g. ship-source pollution offences), certain forms of tax evasion, sexual abuse, gender-based violence, offences committed through digital means such as identity theft, crimes of genocide, crimes against humanity and war crimes, *makes respect for the rule of law and fundamental rights by Member States even more crucial, in particular when it comes to the independence of the judiciary and the right to a fair trial; recalls that given the increasing rule of law deficiencies in some Member States and the absence of fully harmonised substantial criminal law, as well as of minimum procedural standards, expanding the list of offences that do not require a double criminality check could put individuals' fundamental rights at risk;*

Or. en

13.1.2021

A9-0248/7

Amendment 7

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on behalf of the Verts/ALE Group

Report

A9-0248/2020

Javier Zarzalejos

European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))

Motion for a resolution

Paragraph 34 a (new)

Motion for a resolution

Amendment

34a. Considers that efficient long-term management of penitentiary systems should be implemented, reducing the number of prisoners through more frequent use of non-custodial punishments, such as community service, financial penalties and electronic monitoring; stresses that alternative measures to detention should be considered throughout the whole criminal justice chain; calls on the Commission to step up its efforts in this direction and to set up a EU monitoring mechanism on prison and detention conditions;

Or. en

13.1.2021

A9-0248/8

Amendment 8

Gwendoline Delbos-Corfield

on behalf of the Verts/ALE Group

Report

A9-0248/2020

Javier Zarzalejos

European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))

Motion for a resolution

Paragraph 37

Motion for a resolution

37. Calls on the Commission to study the feasibility of supplementing instruments on procedural rights, such as those on admissibility of evidence and prison conditions in pre-trial detention, in particular on the basis of Council of Europe standards or higher, including with regard to time limits on pre-trial detention; states that the Commission should aim for the highest standards while respecting the principles of subsidiarity and proportionality; calls on the Commission to strengthen the information tools for national executing authorities on the conditions of pre-trial detention and imprisonment in each Member State;

Amendment

37. Calls on the Commission to study the feasibility of supplementing instruments on procedural rights, such as those on admissibility of evidence and prison conditions in pre-trial detention, in particular on the basis of Council of Europe standards or higher, including with regard to time limits on pre-trial detention; states that the Commission should aim for the highest standards while respecting the principles of subsidiarity and proportionality; ***believes that the absence of minimum standards on prison conditions and pre-trial detention at EU level, of the limitation of the use of pre-trial detention to being a measure of last resort and of the consideration of alternatives, coupled with the lack of a proper assessment of whether the cases are trial-ready, can lead to unjustified and excessive periods being spent by suspects and accused persons in pre-trial detention; recalls that this situation has been further exacerbated by the COVID-19 pandemic;*** calls on the Commission to ***achieve EU minimum standards, particularly on criminal procedural safeguards and on prison and detention conditions, as well as*** to strengthen the information tools for national executing authorities on the conditions of pre-trial detention and imprisonment in each

Member State;

Or. en

13.1.2021

A9-0248/9

Amendment 9

Gwendoline Delbos-Corfield

on behalf of the Verts/ALE Group

Report

A9-0248/2020

Javier Zarzalejos

European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))

Motion for a resolution

Paragraph 37 a (new)

Motion for a resolution

Amendment

37a. Underlines that there is no mechanism in place to ensure a proper follow-up to the assurances provided by the issuing judicial authorities after surrender; requests that the Commission explore possible measures in this direction;

Or. en

13.1.2021

A9-0248/10

Amendment 10

Gwendoline Delbos-Corfield

on behalf of the Verts/ALE Group

Report

A9-0248/2020

Javier Zarzalejos

European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))

Motion for a resolution

Paragraph 42

Motion for a resolution

42. Notes the standards of the ECtHR as well as the requirements set out in Directive 2013/48/EU on the right of access to a lawyer and Directive 2010/64/EU on the right to interpretation and translation; urges the Commission and the Member States to ensure that the right of access to a lawyer and to legal aid in both the issuing and executing Member States is guaranteed both in law and in practice;

Amendment

42. Notes the standards of the ECtHR as well as the requirements set out in Directive 2013/48/EU on the right of access to a lawyer and Directive 2010/64/EU on the right to interpretation and translation; ***recalls that ensuring adequate time to prepare a case and having full and swift access to the materials of the case would improve the quality of representation; stresses that given the cross-border nature of EAW proceedings, which frequently involve defendants who do not speak the language of the executing Member State, ensuring access to interpretation services at the initial stage of the proceedings, and, in particular, facilitating communication with lawyers, is an essential safeguard of fair proceedings and a requirement pursuant to Directive 2010/64/EU;*** urges the Commission and the Member States to ensure that the right of access to a lawyer and to legal aid in both the issuing and executing Member States is guaranteed both in law and in practice;

Or. en

13.1.2021

A9-0248/11

Amendment 11

Gwendoline Delbos-Corfield

on behalf of the Verts/ALE Group

Report

A9-0248/2020

Javier Zarzalejos

European Arrest Warrant and surrender procedures between Member States
(2019/2207(INI))

Motion for a resolution

Paragraph 43

Motion for a resolution

Amendment

43. States that the EAW is effective; believes, however, that the main issues with the EAW relate to ***its coherence and efficiency, where there is room for improvement, even if limited questions about*** compliance with EU values and fundamental rights ***have been raised***;

43. States that the EAW is effective; believes, however, that the main issues with the EAW relate to compliance with EU values and fundamental rights; ***stresses, however, that there are also issues with regard to coherence and efficiency***;

Or. en