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Report on Sweden

Delegations will find attached the declassified version of the above document.

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EVALUATION REPORT ON THE
FOURTH ROUND OF MUTUAL EVALUATIONS
"THE PRACTICAL APPLICATION OF THE EUROPEAN ARREST WARRANT AND
CORRESPONDING SURRENDER PROCEDURES BETWEEN MEMBER STATES"

REPORT ON SWEDEN

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1. INTRODUCTION

- 1.1. Following the adoption of the Joint Action of 5 December 1997, a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime was established.
- 1.2. Following the discussion of a proposal introduced by the Luxembourg Presidency concerning the topic of the fourth round of mutual evaluations,¹ the MDG of 11 July 2005 adopted the topic as proposed, namely "the practical application of the European Arrest Warrant and corresponding surrender procedures between Member States". It was also agreed at the MDG of 11 July that the evaluation questionnaire was to be prepared by the UK Presidency.
- 1.3. Experts with substantial practical knowledge of the European Arrest Warrant were nominated by Member States pursuant to a written request to delegations made by the Chairman of the MDG on 9 September 2005².
- 1.4. At its meeting on 28 October 2005 the MDG approved the evaluation questionnaire for the fourth round of mutual evaluations. The objectives of the evaluation exercise and the questionnaire itself are set out in 14272/05 CRIMORG 131 COPEN 175 EJM 57 EUROJUST 77.
- 1.5. At its meeting on 28 October 2005 the MDG also discussed and approved 13824/05, the revised sequence for the mutual evaluation visits. Sweden is the seventeenth Member State to be evaluated during the fourth round of evaluation.

¹ Document 9602/05 - Orientation debate on a proposed Mutual Evaluation exercise.

² Document 6206/1/06 REV 1 - Timetable for 2006 and designation of experts.

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- 1.6. The experts charged with undertaking this evaluation were: Ms Johanna Hervonen (Helsinki District Prosecutor's Office, Finland), Mr Johannes Martetschlaeger (Public Prosecutor/advisory, Federal Ministry of Justice, Austria) and Ms Jana Závíšova (Prosecutor, Regional Prosecutor's Office of Košice, Slovak Republic). Two observers were also present: Ms Michèle Coninx (Eurojust) and Ms Claudia Gualtieri (European Commission), together with the General Secretariat of the Council.
- 1.7. This report was prepared by the expert team with the assistance of the Council Secretariat, based upon their findings arising from the evaluation visit of 3-6 December 2007, and upon Sweden's detailed and helpful responses to the evaluation questionnaire and a written request for further information.
- 1.8. The report makes reference to differing processes in respect of conviction and prosecution cases only insofar as there is a divergence of practice between the two procedures.
- 1.9. The expert team's overarching purpose was to evaluate the distinct practical processes operated and encountered by Sweden both as issuing and as executing Member State, to assess relevant training provisions and the views of the defence, before moving on to conclude and to make such recommendations as they felt were appropriate to enhance the means by which the EAW and its corresponding surrender provisions may be further streamlined and improved.

2. THE AUTHORITIES AND THE LEGAL BASIS

2.1. THE AUTHORITIES

Swedish courts can be divided into general courts and special courts. There are two general courts organizations: the general courts and the general administrative courts. Only the general courts play a role in EAW matters, mainly when Sweden acts as executing state. They are organised in a three-tier system:

- Supreme Court;
- Courts of Appeal (6);
- District Courts (53).

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District courts are the courts of first instance in EAW cases. In this matter there are two levels of appeal: to the Court of Appeal and to the Supreme Court. However, the possibilities of having a case completely examined by the latter are limited. Before an EAW case is taken up by the Supreme Court for examination, leave to appeal is required; such leave is granted solely on considerations that any aspect of the case is significant in terms of setting a precedent.

The Swedish Public Prosecution Service.

The Prosecutor-General is the head of the public prosecution service and supervises the work of the public prosecution authorities. The Prosecutor-General is the only public prosecutor entitled to institute or pursue proceedings at the Supreme Court.

The Legal Department within the Office of the Prosecutor-General deals with international matters. In that connection, the Legal Department provides public prosecution offices with the necessary assistance both in general (e.g. by drafting manuals) and in relation to particular cases (e.g. providing expertise or giving guarantees when required by foreign authorities).

At four locations in the country (Umeå, Stockholm, Göteborg and Malmö), there are public prosecution service development centres, tasked with promoting methodological and legal development within different criminal areas; legal follow-up and inspection are also conducted in these offices.

The operative prosecution work is carried out by 40 Public Prosecution Offices:

- Local Public Prosecution Offices (34);
- International Prosecution Offices (3);
- National Prosecution Offices (3).

Local Prosecution Offices perform prosecutorial tasks and lead criminal investigations. Sweden does not follow the so called "investigating judge model", and Swedish public prosecutors have very strong powers compared with the situation existing in other Member States: they may decide on any kind of measures during investigations, including coercive measures, with some exceptions (e.g. phone surveillance, or detention).

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International Prosecution Offices have special competence for combating organized, cross-border crime and for international judicial co-operation. Currently there are 3 of these offices, located in Stockholm, Göteborg and Malmö, each of them covering a geographical area of Sweden.

There are 3 specialized prosecution units with nationwide jurisdiction: the National Anti-Corruption Unit, the Prosecution Unit for National Security and the National Police-related Crimes Unit.

Cases involving economic crime are handled by the National Economic Crimes Bureau. This agency is administratively an independent authority, although in legal terms it comes under the Prosecutor-General when the latter is acting as the highest prosecutorial authority.

The Office of the Prosecutor-General may control and supervise both prosecuting activities and administration of the prosecution service by issuing instructions and guidelines of a general nature. In addition, implementation of proper prosecution policy within the public prosecution service may be ensured through interventions of higher prosecutors in individual cases: the Prosecutor-General, the directors of the prosecution offices and some other prosecutors of higher rank may take over a case from lower prosecutors (at the request of a party or on the higher prosecutors' own initiative) and execute the necessary tasks, or carry out the whole investigation. Higher prosecutors are not allowed, however, to give instructions to lower prosecutors concerning prosecution in individual cases.

As to EAW-related matters, the International Public Prosecution Offices are competent within their regions to receive EAWs and deal with EAW cases. Nevertheless, if the EAW concerns criminality within the competence of one of the National Prosecution Offices or the Economic Crimes Bureau, the EAW will be handled by the competent one among these.

The National Police Board

In Sweden the national police service is responsible to the Ministry of Justice. The National Police Board is the central administrative and supervisory authority for this service. It is headed by the National Police Commissioner, who is appointed by the government. The National Police Board is responsible for international police work and the central police records.

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The National Police Board is responsible for issuing EAWs in conviction cases. This task has been delegated to the International Police Cooperation Division (IPO). The IPO includes the Europol National Unit, the Interpol National Central Bureau, the Sirene National Office and the Police and Customs Cooperation in Nordic Countries Desk.

The Ministry of Justice

The Division for Criminal Cases and International Judicial Cooperation within the Ministry of Justice is Sweden's Central Authority for international judicial cooperation. This division is also responsible for legislation and negotiations concerning international judicial cooperation in criminal cases.

As to EAW related matters, according to the notifications made by Sweden under Article 7 of the Framework Decision, the Central Authority may receive or forward documents or otherwise assist in the issue or execution of an EAW where an authority in Sweden so requests. The Ministry of Justice also plays a specific role as to the recording and monitoring of cases relating to the surrender of Swedish citizens, temporary surrender from Sweden, and refusal of surrender on the grounds that it would contravene the European Convention for the Protection of Human Rights and Fundamental Freedoms, or the supplementary Protocols to the Convention.

A coordinating group involving all relevant actors in the field of judicial cooperation meets regularly under the aegis of the Ministry of Justice.

2.2. LEGAL BASIS

- Act (2003:1156) on surrender from Sweden according to the European arrest warrant, as amended by Act (2006:348)¹
- Ordinance (2003:1179) on surrender from Sweden according to the European arrest warrant².
- Ordinance (2003:1178) on surrender to Sweden according to the European arrest warrant.

¹ Amendment to Chapter 4, Section 2 of the Act.

² Ordinances are issued by the government, without the Parliament being involved.

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The following are also of relevance:

- Act (2000:562) on International Legal Assistance in Criminal Matters.
- Act (1959:254) on extradition for criminal offences to Denmark, Finland, Iceland and Norway (to the effects provided in Chapter 4, Section 4 of the Act (2003:1156) on surrender from Sweden according to the European arrest warrant¹).
- The Swedish Prosecution Authority Statute on International Cooperation (ÅFS 2007:12).
- The Swedish Prosecution Authority Statute on Coordination of Criminal Cases (ÅFS 2005:25).

Judges and prosecutors very often build on the preparatory works to the legislation. The significance of such preparatory works when applying the EAW transposing regulations became clear during the evaluation visit.

3. ORGANISATION AND PRACTICES - AS ISSUING MEMBER STATE

At the time of the evaluation visit, there was no Swedish reply to the Council General Secretariat's questionnaire on quantitative information on the practical operation of the EAW in 2006. During the evaluation visit the expert team was provided with the figures extracted from the records of the Prosecutor-General's Offices and the International Police Cooperation Division (hereinafter referred to as IPO). According to the former, 80 EAWs for prosecution purposes were issued in 2005 (of these 30 resulted in the actual surrender of the requested person), 90 in 2006 (in 30 cases the requested person was surrendered) and 49 (no information available on how many of them resulted in the actual surrender of the sought person) in 2007 (to 3 December); according to the latter the number of requests for international alerts in prosecution cases were 83, 69 and 44 (to 31 October) respectively². As to conviction cases, the IPO registered 59 requests for international alerts/EAWs in 2005, 64 in 2006 and 96 in 2007 (to 31 October).

¹ It reads: "*Application of this Act in relation to Denmark and Finland in certain cases. A prosecutor who has initiated an investigation pursuant to Section 3 because of a European arrest warrant issued by a judicial authority in Denmark or Finland may, if the issuing judicial authority so requests, rule that, instead of this Act, the Act (1959:254) on Extradition for Criminal Offences to Denmark, Finland, Iceland and Norway should be applied. In such cases, the European arrest warrant shall be regarded as a request for extradition under that law.*

The first paragraph shall not be applied after the prosecutor, pursuant to Chapter 5, Section 1, has put the case before the City or District Court."

² See chapter 3.6 below.

3.1. THE DECISION TO ISSUE

An EAW for the purpose of criminal prosecution is issued by a prosecutor. Pursuant to the Ordinance on surrender to Sweden according to the European arrest warrant¹ (hereafter referred to as "the Ordinance"), the Prosecutor General decides which prosecutors are competent to issue an EAW.

An EAW for the purpose of execution of a custodial sentence or detention order is issued by the National Police Board, at the request of:

- the National Prison and Probation Service, for the execution of a prison sentence,
- the National Board of Health and Welfare, for the execution of forensic psychiatric care, and
- the National Board of Institutional Care, for the execution of institutional care of a minor².

The National Police Board has delegated this task to the IPO.

In issuing an EAW the Swedish authorities apply a proportionality test; an EAW may only be issued if it is justified considering the nature and seriousness of the crime and the circumstances in general, thereby taking into account the harm to the individual and the estimated time and costs that may follow. If the requested person is under the age of 18, an EAW may only be issued if it concerns serious criminality or if the youth has a strong connection with Sweden, or if there are some other special reasons for requesting surrender to Sweden³.

In prosecution cases, it is the responsibility of the prosecutor to assess whether or not it is legal, appropriate and proportionate to issue an EAW. The EAW Manual of the Swedish Prosecutor General's Office (hereinafter referred to as "the Prosecutors' Manual") gives guidance on this issue. Prosecutors are also advised to contact the Legal Department at the Prosecutor-General's office (hereinafter referred to as PGO) if it is unclear whether or not an EAW should be issued.

¹ Section 3. According to the Swedish Prosecution Authority Statute on International Cooperation (ÅFS 2007:12), public prosecutors are qualified to issue EAWs.

² Section 4 of the Ordinance.

³ Section 5 of the Ordinance.

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In conviction cases, the institutions involved have no specific guidelines regarding when to request that an EAW be issued. According to the information provided, however, the National Board of Health and Welfare has a list of questions to consider before making a decision to request the IPO to issue an EAW.

3.2. VERIFYING THE POSSIBLE EXISTENCE OF MULTIPLE REQUESTS

In Sweden, the prosecutor leading a criminal investigation is obliged to check the national register of criminal proceedings, in order to find out if there are other ongoing criminal investigations against the same person and, in the affirmative, to coordinate them, if possible¹. If the question of issuing an EAW arises, all offences will be coordinated, normally into one single EAW embracing all offences allegedly committed by the requested person.

A prosecutor who is about to issue an EAW can also find information about sentences not served by the requested person in the Criminal Record Registry. In such a case, according to the information provided, it can be assumed that the prosecutor will contact the IPO for coordination.

In addition, all EAWs issued by prosecutors² are sent to the IPO, where the necessary coordination takes place.

As to conviction cases, upon receipt of a request to issue an EAW the IPO will check the national register of criminal proceedings and, where necessary, contact the prosecutor concerned for the purpose of coordination.

3.3. THE COMPLETION OF THE FORMS/COURT PAPERS

It is the practice of the Swedish authorities to issue, in prosecution cases, a single EAW for all offences allegedly committed by the requested person and, in conviction cases, a single EAW for all sentences passed against the person concerned. The EAW form is available for all prosecutors electronically on intranet. The Prosecutors' Manual provides an example of a completed EAW which functions as a model for the prosecutors.

¹ Swedish Prosecution Authority Statute on Coordination of Criminal Cases (ÅFS 2005:25).

² Pursuant to Section 7 of the Ordinance, even in those cases where the prosecutor sends the EAW directly to the executing authority, a copy is also sent to the IPO. See chapter 3.6 below.

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When an EAW has been issued, the prosecutor is obliged to send a copy to the Legal Department at the PGO for their knowledge. The Legal Department checks whether the EAW has been appropriately issued; as a result the issuing prosecutor may be asked to amend the EAW or even issue a new EAW to replace the previous one as is felt necessary.

The IPO has produced a brief instruction on how to fill out the form in conviction cases. According to the information provided, it is for the legal officers at the IPO to produce a summary of the description of the acts contained in the judgment (which is sent by the interested body by copy together with the request for an EAW to be issued), in order to fulfil box "e" of the EAW form. The information on the remaining sentence to be served, although usually provided in the request, is double checked by IPO officials (they have access to the Criminal Record Registry).

3.4. THE APPLICATION PARTIES/PROCESS

There is no special procedure whereby the decision to issue an EAW is taken.

In prosecution cases the decision on whether or not an EAW is issued lies within the sole discretion of the prosecutor, based on his assessment on the appropriateness and proportionality of the measure, provided that the penalty thresholds are met and a court order for detention has been issued at the request of the prosecutor.

The expert team was informed that, pursuant to the SE law, a detention order can only be issued following a hearing to which the individual has to be duly summoned¹. Some of the prosecutors interviewed noted that such a practice might facilitate the absconding of perpetrators and co-perpetrators, mainly in cases where the person to be summoned is located abroad (in purely domestic cases such a risk is diminished by the possibility for the prosecutor to order an arrest).

In conviction cases, EAWs are issued by the IPO at the request of the competent institution after checking that the legal requirements are met. No judicial control on the issue of the EAW is provided by domestic legislation in these cases.

¹ A defence lawyer is present at this hearing to protect the rights of the individual.

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3.5. TRANSLATION OF THE EAW

EAWs are issued by the SE authorities in Swedish or English. As a rule¹, the original of the EAW is kept by the IPO, pending a hit abroad; once notification is received that the requested person has been arrested in another Member State, the IPO proceeds to translate the EAW into a language accepted by the executing State and forwards the EAW (both the original in Swedish and the translation) to that State. There are in-house translators into English, German, French and Spanish; translations into other languages are outsourced.

The translation of the EAW is therefore a matter for the IPO. However, the issuing authority is responsible for the translation in those cases where the EAW is sent directly to the executing authority².

3.6. TRANSMISSION OF THE EAW

In prosecution cases, if the whereabouts of the requested person are not known the prosecutor sends the original EAW to the IPO, by mail and fax, together with a request to issue an international alert. After a cursory verification of the EAW, intended to check if it contains all the necessary data to insert the information in the system and detect possible mistakes, the IPO issues an SIS-alert and, where appropriate, an Interpol diffusion. When a hit report is received, the IPO notifies the prosecutor who issued the EAW; the Ministry for Foreign Affairs is also informed if the hit refers to a Swedish citizen or a foreign national registered in Sweden as a resident alien. Then the IPO translates the EAW as already described and transmits it to the executing authority, indicating that any request for supplementary information should be addressed to the specific prosecutor who issued the EAW.

If the location of the requested person is known, the EAW may be sent directly to the executing authority. In this case, the issuing prosecutor is obliged to send a copy of the EAW to the IPO³. In conviction cases, the IPO, in addition to sending the EAW directly to the executing authority, will also send a copy of the EAW to the executing Member State's Interpol or Sirene bureaux.

¹ See chapter 3.6 below.

² Section 7 of the Ordinance.

³ Section 7 of the Ordinance.

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According to the information provided, in the majority of cases the EAW is registered as an alert in the SIS and Interpol systems. Even in those instances in which the whereabouts of the requested person are known and the EAW is sent directly to the executing authority, the EAW is normally registered as an alert in the SIS and, where appropriate, Interpol systems, following the recommendations of the Prosecutors' Manual¹.

The transmission mode is determined by the issuing authority. The Swedish authorities reported individual cases in which EUROJUST was used as intermediary for the transmission of the EAW. The EJN was also used to the same effect and assisted in finding the competent receiving authority.

3.7. ISSUES RAISED BY EXECUTING MEMBER STATES AND COMMUNICATION CHANNELS RELIED UPON

The following cases were reported by the SE authorities:

1) In one case, the UK requested information concerning the conditions in Swedish prisons and the risk of the requested person being assaulted in a Swedish prison if he was convicted (the requested person alleged that it would happen if he was surrendered to SE because of his position as a police informer).

The case was brought to Eurojust for resolution and SE could provide an answer to the question (albeit not without questioning the appropriateness of the UK request). The SE and UK desks discussed the problem and then communicated directly with the prosecutor in charge of the case in the UK, to whom an answer was provided by e-mail and fax. A new EAW was not required by the UK authorities.

2) In one case concerning drug crime, the Dutch executing authority questioned the decision of the SE authorities to issue an EAW, since it considered the offence to be a minor offence. The Swedish prosecutor who issued the EAW had to explain that the offence was not considered to be minor in Sweden. The Dutch authority accepted the Swedish explanation concerning the seriousness of the drug crime.

¹ See, however, the divergences between the figures provided by the Prosecutor-General's Office and by the IPO, as regards EAWs issued by prosecutors and EAWs sent to the IPO by prosecutors with a view to inserting an alert in the SIS and Interpol systems respectively, in the first paragraph of chapter 3 above.

3) The SE authorities also reported one case in which the United Kingdom demanded that the Swedish issuing authority issue a new EAW and write that the requested person was "unlawfully at large" and not only "at large", as in the EAW already issued. The Swedish authority did not issue a new EAW, but informed the executing authority that they could send an addendum to the EAW. However, this was not accepted by the executing authority in the United Kingdom, which released the requested person¹.

3.8. REQUESTS FOR FURTHER INFORMATION MADE BY EXECUTING MEMBER STATES

No issue in relation to this matter or instance in which SE had been unable to comply with such requests was reported, even though, in the opinion of the SE authorities, there were cases where requests for further information were not in line with the FD and the principle of mutual trust between judicial authorities on which the FD is based.

3.9. LEGAL REGIME GOVERNING THE RETURN OF OWN NATIONALS FOR THE ENFORCEMENT OF A SENTENCE.

Specific legal arrangements on this matter are to be found in Section 14 of the Ordinance. According to this provision, if the surrender to Sweden for criminal prosecution has been made on condition that the surrendered person is returned to the issuing Member State for execution of the custodial sentence or detention order imposed as a result of the surrender, the prosecutor shall, as soon as the judgement has gained legal force against the person sentenced, determine whether the prerequisites for return have been fulfilled.

If the surrendered person is to be returned, the prosecutor shall immediately notify:

- the National Prison and Probation Service, if the penalty is imprisonment,
- the National Board of Health and Welfare, if the penalty is forensic psychiatric care, and
- the National Board of Institutional Care, if the penalty is institutional care of a minor.

¹ The requirement in the UK legislation was changed in January 2007.

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The authority referred to above shall ensure that the execution of the penalty is transferred to the other Member State, the other State is notified, and the person is brought there on the date agreed with the executing State's competent authority. Assistance may be requested from the National Police Board where necessary. In connection with the transfer, the other State shall be informed of when execution began and of any period of detention that has taken place in Sweden¹.

There are also specific provisions in the Ordinance² on the procedure to be followed for the transfer of execution, when the EAW issued for the execution of a custodial sentence or detention order is refused on grounds of Article 4(6) of the Framework Decision.

3.10. YOUTH SURRENDERS AND CORRESPONDING GUARANTEES

The age of criminal responsibility in Sweden is 15 years. If the requested person is under 18 years an EAW may be issued only if certain conditions are met³.

At the time of the evaluation visit Sweden had experienced no difficulty in this regard.

3.11. EVOLVING BEST PRACTICES

According to the information provided, following the case with the UK that resulted in the requested person being released because the EAW did not mention that he was "unlawfully at large"⁴, the IPO changed its routines so that such a formula is included in all EAWs sent to the UK.

3.12. GENERAL COMMUNICATIONS WITH THE EXECUTING MEMBER STATE

The expert team was informed that contacts between the issuing SE prosecutors and their counterparts abroad are made directly and through the IPO. During the visit to the International Public Prosecution Office in Gothenburg it appeared, however, that the preference was for using police channels, since they are considered to be less bureaucratic.

¹ According to the information provided, only one Member State, the Netherlands, has disapproved of the Swedish regime for sending back nationals, by requiring that the 1983 Convention on the Transfer of Sentenced Persons be applied.

² Section 15.

³ See chapter 3.1 above.

⁴ See chapter 3.7 above.

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As to the exchange of information on the progress of EAW procedures, the Swedish authorities reported that – due to lack of information from the executing authority – it is often the Swedish issuing prosecutor who contacts the executing authority to obtain such information.

Information was also given on problems in successfully sending EAWs by fax to Poland and getting confirmation from that country about the receipt of the EAW. In the view of the SE authorities this is, to some extent, due to the fact that Polish authorities seem reluctant to communicate in English.

3.13. THE MECHANICS OF THE SURRENDER OF REQUESTED PERSONS

When a surrender decision is made, the IPO usually receives a request for a travel plan from the executing State's Sirene or Interpol office. Following that, the Swedish Prison and Probation Service's Transport Unit, at the request of the IPO, provides a travel plan (including the names of the escort officers and the flight times). This plan is forwarded to the executing state by the IPO. Upon approval of the travel plan by the competent authorities in the executing MS, the IPO sends it back to the Transport Unit, which will arrange for the transport. The International Public Prosecution Office is kept abreast of all these arrangements.

No problem arising on a regular basis in relation to this matter was identified by the SE authorities. However, difficulties in complying with time limits were reported in connection with cases where requests for transit had been denied or the transit State took a long time to communicate its decision.

3.14. THE MECHANICS OF THE SURRENDER IN RESPECT OF REQUESTED PROPERTY

According to the information provided, at the time of the evaluation visit there were very few cases of EAWs issued by the SE authorities with a request to seize and hand over property. No issue in connection with these matters was recorded.

3.15. CONFLICT OF EAWS/EXTRADITION REQUESTS/ONWARD SURRENDER

At the time of the evaluation visit there was no experience of such cases.

3.16. EXPENSES

At the time of the evaluation visit no issues had been recorded in respect of the payment of expenses associated with EAW procedures.

3.17. MISCELLANEOUS

Replacement of pre-existing alerts with EAWs

According to the information provided, pre-existing Article 95 alerts and alerts based on International Arrest Warrants remain valid and have not in general been replaced by EAWs. In these cases, if information is received that the requested person has been arrested, the prosecutor responsible for the alert, or the IPO when it concerns conviction cases, will immediately issue an EAW.

Accessory offences

Accessory offences may be included in EAWs issued by Swedish authorities in both prosecution and conviction cases¹. According to the information provided, however, it is not the prosecutors' practice to add accessory offences when issuing an EAW for the purposes of conducting a criminal prosecution. The IPO, on the other hand, does include accessory offences in EAWs issued for the purposes of executing a custodial sentence or detention order.

Conditional surrender

The Swedish law does not provide guarantees for keeping in custody persons temporarily surrendered to Sweden on condition that they are returned to the executing State (Article 24(2) of the Framework Decision). The expert team was informed that, according to the Swedish law, a temporarily surrendered person may be kept in custody; however, no absolute guarantee of the return of the surrendered person can be given. This has an impact on the Swedish prosecutors' practice not to ask for temporary surrender.

Speciality rule

Pursuant to Section 16 of the Ordinance, the person surrendered to Sweden may renounce entitlement to the speciality rule in writing on the form adopted by the Office of the Prosecutor-General. Such renunciation can be given to the official appointed by the Office of the Prosecutor-General, the National Prison and Probation Administration or the National Board of Institutional Care to receive a declaration of this kind, to the chief medical officer at the unit where a sentence of forensic psychiatric care is being executed, to the prosecutor or, on assignment by the prosecutor, to a police officer who is assisting the investigation.

¹ Sections 3, 4 and 6 of the Ordinance.

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The person who has been surrendered must be notified of the implications of his consent. If possible, the document in which consent is given shall be written in the language that is normally used by the person who has been surrendered. If another language is used a note shall be made on the document of the measures that were taken to check that the surrendered person understood the implications of consent.

4. ORGANISATION AND PRACTICES - AS EXECUTING MEMBER STATE

As already mentioned, there is no Swedish reply to the Council General Secretariat's questionnaire on quantitative information on the practical operation of the EAW in 2006. During the evaluation visit the evaluation team was provided with the information extracted from the Prosecutor-General's Office's records in relation to incoming EAWs that resulted in the actual surrender of the requested person in the calendar years 2004, 2005 and 2006: 24, 35 and 40 respectively. No information was provided as to the total number of EAWs received.

Information was also given with regard to 2007 (to 3 December), according to which the surrender of the requested person had taken place in 21 cases, in 1 case the EAW had been refused, in 5 cases the surrender of the requested person had been postponed (of these, 2 had already been executed), and in 6 cases where the arrest of the requested person was recorded, surrender had to be checked.

4.1. RECEIPT PROCEDURES

Under the Swedish Act (2003:1156) on surrender from Sweden according to the European arrest warrant (hereinafter referred to as "the Act")¹, an EAW may be transmitted through SIS or by means of another system for tracing persons suspected of committing offences. If the person who is the subject of an EAW is known to be in a particular location in Sweden, the EAW may be transmitted directly to the competent prosecutor. This shall be done in writing, by post, messenger or telefax. By agreement in individual cases, however, transmission may take place in another manner. The Prosecutor-General decides which prosecutors are competent to administer cases under the Act.

¹ Chapter 4, Section 1.

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The Prosecutor-General decided that the public prosecutors at the International Public Prosecution Offices are competent within their regions to receive EAWs and deal with cases in accordance with the Act¹. Currently there are three International Public Prosecution Offices situated in Stockholm, Göteborg and Malmö, each of them covering a geographical area of Sweden.

If the EAW concerns criminality within the competence of one of the following authorities/units, the EAW will be handled by the appropriate body: the Economic Crimes Bureau, the National Anti-Corruption Unit, the Prosecution Office for National Security and the National Police-related Crimes Unit. This is, however, an internal regulation as to the handling of cases. Therefore, even when the act on which the EAW is based falls within the competence of one of those agencies, the issuing authority can rely on sending the EAW to one of the International Public Prosecution Offices².

In that connection, it was reported that the Polish authorities keep sending EAWs to the Office of the Prosecutor-General instead of sending them directly to the International Public Prosecution Offices. This causes problems in cases where no location or address is indicated for the requested person. According to the information provided, the issuing Polish authorities have been informed of this problem by the Office of the Prosecutor-General on several occasions. This problem may also be linked to the fact that the Swedish authorities have not updated the declaration to the Council on competent authorities.

¹ Outside office hours regular duty and stand-by prosecutors are competent to handle EAW cases. According to the Swedish Prosecution Authority Statute on International Cooperation (ÅFS 2007:12) all public prosecutors are formally qualified to deal with EAW cases.

² Pursuant to Section 3 of the Ordinance (2003:1179) on surrender from Sweden according to the European arrest warrant, if the prosecutor which receives an EAW is not competent to act on it, he shall immediately hand it over to the competent prosecution office and shall inform the issuing authority correspondingly.

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The EAW/alert is in the majority of cases transmitted to Sweden through SIS or Interpol¹. In such instances the IPO, following the arrest of the requested person, will inform the issuing State of the timelimit within which the Swedish prosecutor needs to receive the original EAW. It has to be noted that there is no explicit time-limit in the Swedish law for the receipt of a language-compliant EAW. The prosecutor can decide, however, to fix a deadline in a particular case, while notifying the issuing authority that, if the EAW is not received in time, the requested person will be released².

There is no special process whereby it is verified that the EAW comes from a valid source. If there is uncertainty in this respect, the IPO or the competent prosecutor will make whatever checks they consider necessary.

Sweden accepts EAWs written in or translated into Swedish, Danish, Norwegian or English.

The Central Authority of the Ministry of Justice may receive or forward documents or otherwise assist in the issue or execution of an EAW where an authority in Sweden has so requested³.

4.2. INVESTIGATIONS CONCERNING THE LOCATION OF THE REQUESTED PERSON/CIRCULATION PROCEDURES

According to the information provided, all new Article 95 alerts entered in the system are being checked, including those not related specifically to Sweden. A first check is made by the officers at the Swedish Sirene Office as to whether there is any indication of the location of the requested person in Sweden. After that, the profile is run through the national registers in order to find out whether or not the requested person is located in Sweden. If the requested person is a national of a State outside the EU, the Swedish Migration Board's register is also checked.

¹ Chapter 4, Section 2 of the Law, as amended by Act 2006:348, reads: "An alert registered in the SIS or in another system for tracing persons and which concerns extradition or surrender to a Member State of the European Union shall be equated to a European arrest warrant pending the transmission of such a warrant".

² Pursuant to Chapter 4, Section 3, third paragraph of the Act, "The investigation (whether surrender from Sweden may take place) shall be conducted with dispatch". Chapter 5, Section 3 provides: "The City or District Court shall issue a decision on the matter of surrender not later than 30 days after the requested person has been apprehended". See chapter 4.6 below.

³ Doc 16288/03 - Communication to the Secretary General of the Council on the implementation in Swedish legislation of Council Framework Decision 2002/584/JHA of 13 June of 2002 on the EAW and the surrender procedures between Member States together with notifications and comments on the Framework Decision.

RESTREINT UE

Within the IPO there is a special group handling alerts that are not sent through SIS. The same checks as stated above are made in order to find out whether or not the requested person is located in Sweden.

After these checks, the alert is filed within the National System for Missing and Wanted Persons and thereby becomes accessible to all the police authorities in Sweden and the Swedish Customs Service.

If the requested person has an address or is otherwise located in Sweden, the information in the EAW/alert is forwarded to the competent local police authority for further handling. In such cases, the IPO also forwards the supplementary information (A and M-form) to the competent International Public Prosecution Office for a decision on arrest and further investigation.

The IPO issues prohibitive validity flags e.g. when the alert concerns a person under the age of 15, or when the act clearly does not constitute a crime in Sweden and the issuing State does not refer to a catalogue offence (e.g. not paying child maintenance). According to the information provided in the replies to the EAW questionnaire, the validity flags were scrutinized by the IPO's lawyer and might be discussed with a prosecutor in case of doubt. During the visit to the IPO, the expert team found out that the decision to add a validity flag to the SIS alert is made by duty officers and, where there is any uncertainty, by senior officers (there is no seconded prosecutor at the IPO).

RESTREINT UE

4.3. THE FORM OF THE WARRANT AND REVIEW PROCEDURES

It is the responsibility of the prosecutors at the International Public Prosecution Offices to check the EAW and determine whether or not it fulfils the requirements of the Swedish legislation and/or there is a need for further information¹. No formal process exists for such a check. When the case is brought to the court, the judge can also decide to ask the issuing authority for further clarification /information, which will be handled by the prosecutor².

Pursuant to Chapter 2, Section 3 of the Act, the court may refuse the surrender if, despite the issuing authority having been given the opportunity to provide further information, a request is so inadequate "*in terms of form or content*" that it cannot serve as a basis for the examination of the question of surrender "*without considerable inconvenience*". In such a case the prosecutor may refuse the EAW on his own initiative, without submitting the case to the court³.

The expert team was not clear about the meaning of "without considerable inconvenience". During the interviews the information was given that there is no specific indication in the preparatory works to the legislation. It was explained, however, that refusal by the prosecutor was envisaged for critical cases, i.e. when the missing information had been requested repeatedly without success, and therefore in most cases the request for surrender would be submitted to the court.

4.4. REQUESTS AND RESPONSES TO REQUESTS FOR FURTHER INFORMATION/CLARIFICATION

Requests for further information are normally made in English, by the prosecutor or by the IPO on behalf of the prosecutor. The IPO may also assist where there is a need to make a request for further information in a language other than English. Supplementary information is accepted in Swedish, Danish, Norwegian and English.

¹ Chapter 4, Section 2a of the Act, as amended by Act 2006:348, reads: "When a request is so inadequate in form or content that it cannot, without considerable inconvenience, form the basis for a trial regarding the surrender issue, the prosecutor shall enable the issuing judicial authority to submit supplementary documentation by a given date". According to the preparatory works, the prosecutor must fix a deadline; specifically, it is stated that additional information shall be requested "within one or a few days".

² Doc 16331/03 EXT 1- Description of the treatment of a European arrest warrant when Sweden is the executing State - states, on page 10: "The public prosecutor has full responsibility... for contacts with the issuing authority...".

³ Chapter 5, Section 1 of the Act.

RESTREINT UE

As to the most common grounds for these requests, the Swedish authorities reported instances of convictions in absentia (either to get enough information from the issuing authority on the conditions under which the conviction in absentia was decided, or to have clear and unconditional guarantees that the requested person would be given the opportunity of a retrial), poor translations, unclear or unsatisfactory descriptions of the criminal offence and difficulties in understanding whether the EAW concerned a criminal investigation or the execution of a custodial sentence. Individual cases where problems with the classification of the offences in the catalogue arose (the offence as described in the EAW did not correspond to any of the catalogue offences), were also reported.

The expert team was informed that Swedish prosecutors often need to ask the issuing authority whether or not the requested person's contacts with the outside world should be restricted in case of a court decision for detention, since detained persons are, under Swedish law, not automatically subject to restrictions with the outside world, and such information is seldom contained in the request for surrender.

4.5. ARREST PROCEDURES/FIRST HEARING

The requested person may be arrested following an order of the prosecutor, on the basis of an EAW, a SIS-alert, or an Interpol alert¹. Arrests are handled by the local police authorities of the place where the requested person is located. When necessary, the local police authority may request the assistance of the National Criminal Investigation Department.

¹ Chapter 4, Section 2, second paragraph, of the Act.

RESTREINT UE

Pursuant to the Act¹, the prosecutor shall order the arrest of the requested person, unless there is an expectation that the requirements for surrender will not be met, or there is no risk that the requested person will abscond or otherwise evade surrender. Even where there is no risk of evasion, arrest shall take place if there is a risk that the requested person may dispose of evidence or otherwise hinder investigation of an act included in the arrest warrant. Persons under eighteen years of age may be arrested only where there are "particular reasons" for doing so. If the above-mentioned grounds for arrest concur but it is deemed sufficient to impose a travel prohibition on, or prescribe an obligation to report for, the requested person, a measure of this kind shall be implemented instead of arrest. In specific cases arrest will be replaced by supervision.

If there are grounds for arresting a person, a police officer or official at the Swedish Customs Service or the Swedish Coast Guard may also, in cases of urgency, apprehend the requested person even without a prior order for arrest. In this case, the competent public prosecutor (depending on where the arrest took place) will be notified without delay. Immediately after an interview with the requested person, during which the latter is informed of the content of the arrest warrant, the prosecutor will make a decision to arrest or release the requested person. Such a decision has to be issued within 6 hours of the arrest.

If the requested person is arrested, the prosecutor will, without delay and at the latest by twelve o'clock on the third day following the arrest decision, apply to the city or district court for a detention order. In this case a hearing takes place.

The individual has the right to legal assistance from the moment of the arrest. A public defence counsel shall be appointed for the requested person if he so wishes, or if he is under eighteen years of age or is otherwise deemed to be in need of a defence counsel². In such a case, it is for the court to appoint the defence counsel upon a request from the prosecutor. Where necessary, the requested person has the right to be assisted by an interpreter. The defence counsel and, where appropriate, the interpreter, are present at the hearing on detention, together with the prosecutor.

¹ Chapter 4, Section 5.

² Chapter 4, Section 8 of the Act.

RESTREINT UE

The court's decision on detention is subject to the conditions applying to arrest¹. Travel prohibition and obligation to report may be applied by the court as an alternative to detention². According to the information provided, this is usually done in cases where the requested person is living in Sweden - either being a Swedish national or another person living in Sweden under the same conditions- and there is a low risk of absconding.

Pursuant to the implementing law³, a decision for detention should be rescinded if continued deprivation of liberty would be "unreasonable, given its duration to date and the sanction that has been -or may come to be- imposed if the requested person is convicted of the act". To the question posed by the expert team concerning how this provision should be interpreted, the reply was given that, according to the preparatory works, it does not introduce any discretionary power for the judge to ignore the obligation to keep the person in detention pursuant to Chapter 4, Section 5 of the Act⁴.

The team was also informed that the person can be released by the prosecutor if, as a result of the investigations, he considers that there are grounds for dismissing the request for surrender.

4.6. THE SURRENDER DECISION - REQUIREMENTS AND GUARANTEES

The decision on surrender falls within the competence of the City or District Court covering the area where the requested person resides or is apprehended. The court decides on the question of surrender following a motion by the prosecutor⁵. However, as already mentioned, the prosecutor may, before the case has been put before the court, refuse an EAW on grounds that it is inadequate in terms of form or content⁶.

¹ Chapter 4, Section 6 of the Act.

² According to the information provided, there is no bail in Sweden.

³ Chapter 4, Section 6, second paragraph, of the Act.

⁴ According to the preparatory works, the implementing law should be interpreted in this regard as follows. Detention could be rescinded if continuous detention would be unreasonable given that the penalty is so short that in principle it has been served during the handling of the EAW-case in Sweden. This could also be the case when an EAW has been issued for serving a sentence and the time of deprivation of liberty would be longer than the imposed penalty.

⁵ Chapter 5, Section 1 of the Act.

⁶ See chapter 4.3 above.

RESTREINT UE

According to Chapter 4, Section 3 of the Act, the prosecutor is responsible for investigating whether the surrender may take place¹ before referring the case to the court. For that purpose, the Prosecutors' Manual includes a list of items to be checked (checklist).

The Swedish law does not provide a deadline for this investigating phase, whereas, in principle, the court is obliged to issue a decision on the matter of surrender not later than 30 days after the requested person was apprehended². According to the implementing law³, the investigation shall be conducted with dispatch, taking into account the time period assigned to the court to issue a decision on surrender. It also provides⁴ that the court may, if particular reasons exist, issue its decision later. The interpretation of such provisions are, however, divergent, and may pose problems in particular cases, as it was explained to the expert team during the visit to the City Court and the International Public Prosecution Office in Gothenburg⁵.

Pursuant to the Act, the court shall, for its trial of the surrender issue, hold a hearing, unless it is obvious that surrender will not be approved, or if the requested person requests that the case be settled according to the case documents⁶. The prosecutor and the requested person shall be summoned to this hearing. If the requested person was arrested or detained, he must attend the hearing in person. The individual will be assisted by his defence counsel and, where appropriate, an interpreter.

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- ¹ Doc 16331/03 EXT 1- Description of the treatment of a European arrest warrant when Sweden is the executing State states, in page 10: "The public prosecutor has full responsibility for the investigation... The role of the courts is central but limited to decisions on certain means of compulsion and on surrender...".
- ² Chapter 5, Section 3, first paragraph, of the Act.
- ³ Chapter 4, Section 3, third paragraph.
- ⁴ Chapter 5, Section 3, third paragraph.
- ⁵ The following case was reported: a person was arrested on the basis of an Interpol alert issued by the Romanian authorities; the City Court issued an order for detention (the EAW was not available at the time of the hearing); during the investigating phase the question of the individual having been judged in absentia arose, and the prosecutor tried to obtain guarantees for retrial from the issuing authority, unsuccessfully; because of the duration of the period of detention without the prosecutor having submitted any request for a decision on surrender, the judge decided to set the requested person free when more than 90 days had elapsed; the prosecutor appealed against this decision. The Court of Appeal overturned the decision when appropriate guarantees for a retrial had been given.
- ⁶ Chapter 5, Section 2.

RESTREINT UE

In its decision ordering that the requested person be surrendered, the court shall try the question of whether a coercive measure should be imposed until the surrender decision has been enforced¹.

The City or District Court decision on surrender may be appealed in the Court of Appeal and the Supreme Court. There are, however, some cases in which such a decision is not appealable².

Consent to surrender

Pursuant to the Act³, the requested person will be asked "at the earliest possible opportunity" whether he consents to surrender. Consent can be given at any stage of the procedure to a prosecutor or, on behalf of the prosecutor, to a police officer⁴, after the individual has been informed of the consequences of such a consent.

The consent must be signed by the requested person on a specific form issued by the Office of the Prosecutor-General. This form is available in the Prosecutors' Manual in different languages; according to the information provided, if the form is not available in a language spoken by the requested person, he will be assisted by an interpreter.

If consent is given, the court must decide upon surrender within ten days⁵. In this case, there is no need for a hearing in court⁶, nor may the surrender decision be appealed⁷.

The consent can be revoked, if it occurs before the court has issued its decision on the question of surrender⁸. The revocation shall be made on the same form as mentioned above.

¹ Chapter 5, Section 7 of the Act.

² See chapter 4.8 below.

³ Chapter 4, Section 9.

⁴ This is the usual practice, for instance, at the International Public Prosecution Office of Stockholm, since the area covered by this office is very large.

⁵ Chapter 5, Section 3, second paragraph of the Act.

⁶ Chapter 5, Section 2, second paragraph, of the Act.

⁷ Chapter 5, Section 9 of the Act.

⁸ Initially, according to the statements made by SE on the adoption of the Framework Decision (OJ L 190, of 18.7.2002), revocation should take place *before the decision on surrender was executed*.

RESTREINT UE

During the interviews the following questions were raised by the expert team in relation to this issue:

- Actual need for the EAW. The expert team was not clear about the actual need for the consent to be given on the basis of the EAW form. This was the opinion expressed by the officials interviewed during the visit to the Office of the Prosecutor-General. However, the judges interviewed during the visit to the City Court of Stockholm were doubtful about this question. They seemed not to pay so much attention to whether the consent had been given on the basis of the EAW form, or on the basis of the information provided by a SIS or an Interpol alert¹, and relied on the information provided by the prosecutor that the individual had been informed in a comprehensive way.
- Assistance of a defence counsel. According to the information provided by the Swedish authorities, the assistance of a defence counsel was not required for the consent to be valid.

4.7. REFUSALS TO SURRENDER

The Swedish authorities were not able to provide unified statistics detailing the most frequently invoked grounds for refusal to surrender². However, in the replies to the EAW questionnaire, information was given that the Office of the Prosecutor-General had reported a number of cases where surrender was refused because the requested persons were Swedish nationals and the crimes were statute-barred. According to such information there had also been a few conviction cases where surrender was refused because the requested persons were Swedish nationals who requested to serve the sentence in Sweden. During the evaluation visit information was given that in 2007 (until 3 December), 1 EAW had been refused by the prosecutor, based on the inadequacy of the request (see chapter 4.3 above).

As to the grounds for refusal listed in the implementing law, a number of questions were raised by the expert team in relation to the following.

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- ¹ One of the Swedish participants, who had been involved in the evaluation carried out at a national level, at the request of the Parliament, after the first year of the coming into force of the implementing law, explained that this was the court practice reflected in the corresponding final report.
- ² According to the information provided by the Swedish authorities during the preparation of the report, the Swedish Prosecution Service has put in place an electronic statistics system for all cases of judicial cooperation, including EAW-cases. Due to problems related to the starting up of the system and the introduction of a totally new electronic registration system in the beginning of 2007, the figures extracted from the system were not completely reliable.

RESTREINT UE

1) Chapter 2, Section 4, numeral 3 provides that the surrender may not be granted "if it would contravene provisions on immunity and privileges". According to the explanation provided by the Swedish authorities, the reason for such a provision is the actual risk that immunity is not lifted. They also argued that this ground for refusal is listed in the Framework Decision of 24 February 2005, on the application of the principle of mutual recognition to financial penalties.

In that connection, in its comments to the first European Commission report, Sweden noted the following: "when an authority in Sweden has the power to waive the immunity, the Swedish Executive Authority shall request that authority to do so. According to Swedish tradition on law drafting, this is not laid down in any provision of the law, but is provided for in the preparatory works (Government bill 2003/04:7, page 176). Moreover, analysing the possibility to take legal actions in cases of immunity lies within the prosecutor's obligations in a preliminary investigation in criminal cases (see reference to these provisions in Chapter 4, Section 3, paragraph 2, of the Swedish EAW Act)"¹.

2) Chapter 2, Section 5, numeral 5 corresponds to Article 4(2) of the Framework Decision. The latter, however, refers to instances where the requested person "is being prosecuted" in the executing state, whereas the former reads "a preliminary investigation or prosecution ... initiated in Sweden". The Swedish authorities explained that there is no reason for the different wording other than the need to use the Swedish legal terminology when transposing the Framework Decision, and that such a difference should not be interpreted as an extension of this ground for refusal as provided for in the latter. They noted that, pursuant to the implementing law, this ground for refusal is optional, since the Swedish prosecutor in charge of the investigation initiated in Sweden can decide to close it, so that the criminal prosecution can be conducted in the issuing State. The team was informed that, according to the preparatory works, this provision should be applied with caution and with due respect to the issuing Member State's claim to prosecute the requested person, based on the criteria that prosecution should take place where most appropriate (e.g. in view of where evidence best can be obtained, where the injured party's claims can be best provided for, or the stage of proceedings in relation to costs and work already done), and that agreement with the issuing Member State should be sought.

¹ Doc 7751/05 - Member States' comments to the report from the Commission, based on Article 34 of the Council FD of 13 June 2002 on the EAW and the surrender procedures between Member States, page 55 (comments by the Swedish delegation).

3) Chapter 2, Section 5, numeral 6 provides that the surrender may not be granted if sanction for the act is statute-barred and the requested person is a Swedish national. The Swedish authorities explained that this provision has to be interpreted in connection with the principle of active personality.

4) A specific ground for refusal inspired by respect for the European Convention on Human Rights and the supplementary Protocols to that Convention is envisaged in Chapter 2, Section 4, numeral 2, of the Act. According to the information provided by the Swedish authorities, in the preparatory works it is emphasized that very clear evidence is requested to make use of this provision and the burden of proof is on the defendant. At the time of the visit, no EAW refusal based on these grounds had been reported. The Supreme Court has in a recent case confirmed the statements in the preparatory works to the legislation and declared that this ground for refusal would have an extremely limited application because of the principle of mutual trust.

4.8. APPEAL PROCEDURES AND THE IMPACT ON TIMELIMITS

As was already mentioned, not all City or District Courts' decisions on surrender can be appealed. Thus, if the requested person consented to surrender, the court decision cannot be appealed. Nor is appeal possible against the decision to refuse surrender in a conviction case on the grounds that the requested person is a Swedish national and has requested to serve the sentence in Sweden¹.

In other cases an appeal may be made to the Court of Appeal within three weeks of the decision by the City or District Court, and to the Supreme Court within four weeks after the decision by the Court of Appeal. The Supreme Court will examine the case only where it has given leave to appeal, on considerations that the matter is of general interest and could serve as precedent for other cases.

¹ Chapter 5, Section 9 of the Act.

RESTREINT UE

Although, according to the information provided, the principle that EAW cases have to be dealt with dispatch applies to all instances, the expert team noted that, if both appeals are lodged at the end of the periods concerned, the 60-day timelimit of Article 17(3) of the Framework Decision will not be met; moreover, it will even be difficult to comply with the 90-day time-limit of Article 17(4). In fact, in their replies to the EAW questionnaire, the Swedish authorities confirmed a number of cases (ca. 6-7) in which they had not been able to comply with the latter. According to the information provided, these cases were reported to Eurojust via the Office of the Prosecutor-General.

It should be noted that, pursuant to the implementing law¹, where the person to be surrendered declares that he is waiving appeal and agrees to the enforcement of the surrender decision, the fact that this is not final will not prevent execution from taking place.

4.9. OWN NATIONAL AND YOUTH SURRENDER ISSUES

Sweden opted for regulations applying both Article 4(6) and Article 5(3) of the Framework Decision². Such regulations apply on condition that the requested person demands that the sanction be executed in Sweden. It should be noted, however, that the EAW will not be refused in conviction cases, nor will a return guarantee be required in prosecution cases if, at the time of the act, the requested person has been permanently residing in the issuing Member State for at least two years, unless particular reasons concur as to why the enforcement should take place in Sweden.

The transfer of the enforcement of a sentence imposed on a Swedish national by a court of another Member State is regulated by Chapter 7 of the Act. According to these arrangements, the only requirement for the sentence to be enforced in Sweden is the decision of the responsible authorities in Sweden³ to transfer the enforcement of the sanction to this country. Such decision shall be issued on the sole condition that the EAW is refused or the person surrendered from Sweden is to be returned on those grounds.

¹ Chapter 6, Section 4.

² Chapter 2, Section 6 and Chapter 3, Section 2 of the Act respectively.

³ The National Prison and Probation Service, if the sentence to be enforced is imprisonment; the National Board of Health and Welfare, if the sentence to be enforced is forensic psychiatric care; the National Board of Institutional Care, if the sentence to be enforced is institutional care of a minor.

RESTREINT UE

In deciding to transfer the enforcement of the sanction to Sweden, the responsible authority may itself issue the detailed regulations needed (according to the information provided during the visit, this refers exclusively to practicalities), or assign to the prosecutor the task of submitting a request for the court to issue a new judgment deciding on a custodial sentence or detention order that corresponds to the foreign sanction. In the latter case, the implementing law expressly provides that the court's adjudication shall not cover the issue of whether the convicted person committed the act, or how the act should be judged.

As to the functioning of these provisions in practice, the Swedish authorities reported one case with Italy in which difficulties arose from the fact that the Italian authorities failed to inform Sweden of the final custodial sentence (even though both the prosecutor dealing with the file and the Central Authority at the Ministry of Justice reminded them several times), and consequently the Swedish national was not brought back to Sweden in due time.

As for youth surrenders, at the time of the evaluation visit no issues had been reported.

4.10. ACCESSORY SURRENDER

Accessory surrender is allowed according to Swedish legislation¹.

4.11. SPECIALITY

According to the information provided, Sweden had no experience of difficulties arising from this issue at the time of the visit.

Renunciation of entitlement to the speciality rule is guided by the same provisions as those applicable to consent to surrender. However, revocation of such renunciation shall be taken into account if it occurs before the surrender decision has been enforced².

¹ Chapter 2, Section 2, third paragraph, of the Act.

² See chapter 4.6 above.

RESTREINT UE

4.12. ONWARD SURRENDER/EXTRADITION

The Swedish authorities reported no difficulty in this connection.

4.13. TEMPORARY/CONDITIONAL SURRENDER

The Swedish authorities reported one case with Poland where the requested person was surrendered for criminal prosecution (the surrender decision became final on 27 June 2006), on condition that he should be returned to Sweden in order to continue to serve a previous custodial sentence passed in Sweden.

According to the information provided, the Polish authorities were asked to contact the Swedish Ministry of Justice when the return of the surrendered person was due. The Polish authorities had informed the staff at the Swedish prison, where the surrendered person was serving his Swedish sentence, that he should be transferred back to Sweden within approximately eight months. After over a year, the Ministry of Justice requested information from the Polish Ministry of Justice on when the surrendered person was to be transferred back to Sweden to serve the remainder of the Swedish sentence. The Swedish authorities received a reply that the proceedings against the person were still in progress in Poland, and that he should remain at the disposal of the Polish law enforcement authorities at least until the end of 2007.

4.14. THE MECHANICS OF SURRENDER (INCLUDING TEMPORARY AND CONDITIONAL SURRENDER) OF REQUESTED PERSONS

The prosecutor has the responsibility to inform the issuing authority about the decision on surrender and, where appropriate, that the surrender is on condition that the person surrendered is to be returned to Sweden¹. In the latter case the prosecutor shall also inform the issuing authority to contact the Central Authority at the Ministry of Justice when the return is to take place.

¹ Doc 16331/03 EXT 1- Description of the treatment of a European arrest warrant when Sweden is the executing State - states, on page 10: "... Information regarding court decisions will be passed on to the issuing authority by the public prosecutor".

RESTREINT UE

Pursuant to the implementing law¹, unless otherwise agreed, enforcement of surrender decisions will take place through the person to be surrendered being fetched by the issuing State. A travel plan will be therefore requested from the issuing authorities. When received, the IPO will forward the travel plan to the Swedish Prison and Probation Service's Transport Unit and, if it is approved, the surrender will take place accordingly.

The implementing law provisions on timelimits for surrender of the requested person match those of the Framework Decision. According to Chapter 6, Section 7 of the Act, the court, at the request of the prosecutor, shall reverse the decision on surrender if, for any reason other than that the person to be surrendered is evading the enforcement of the decision, it has not been enforced within ten days of the date pursuant to such provisions. No case was reported in which those timelimits were not observed. The Swedish authorities confirmed, however, that in some cases difficulties in complying with the ten-day limit for the surrender of the person had arisen.

In order to ensure surrender, the Act provides² that, in ruling that the requested person should be surrendered, the court shall try the issue of whether a coercive measure should apply until the surrender decision has been enforced. The court may also order coercive measures after the decision on surrender.

In that connection, it is also envisaged³ that a person to be surrendered who is at large, may, if it is deemed necessary to make the surrender feasible, be apprehended and taken into custody by the police authority for a maximum of 48 hours.

The public prosecutor is responsible for informing the issuing authority of the days of detention of the requested person on the basis of the EAW, by using the form that is available in the Prosecutors' Manual.

¹ Chapter 6, Section 1, first paragraph.

² Chapter 5, Section 7.

³ Chapter 6, Section 5 of the Act.

4.15. CONFLICT OF EAWS/EXTRADITION REQUESTS

The provisions of the Act on this issue follow the criteria laid down in Article 16 of the Framework Decision in the determination of priority. There is no provision in the implementing law, however, laying down the criteria according to which the decision on precedence has to be taken in the event of a conflict between an EAW and a request for extradition presented by a third country.

4.16. EXPENSES

See chapter 3.16 above.

5. TRAINING PROVISIONS

According to the information provided by the Swedish authorities, already at the end of 2003 the Ministry of Justice, the Office of the Prosecutor-General and the National Police Board on two different occasions organized one-day training on the EAW Framework Decision and the implementing Swedish law for judges, prosecutors and police officers. In addition, the Legal Department at the Office of the Prosecutor-General held a two-day seminar for prosecutors from the International Public Prosecution Offices. This seminar was followed by further seminars for prosecutors from the International Public Prosecution Offices, focused on extradition and EAW together with other judicial-cooperation-related matters, which have been held on a yearly basis to date. Eurojust is an integral part of these seminars (e.g. the Swedish National Member to Eurojust participates in these seminars, information on Eurojust practical experience is provided to participants, etc).

Training on the EAW is part of the basic training programme for junior prosecutors, where one day is completely dedicated to extradition and surrender issues. The expert team was informed that similar training for all Swedish prosecutors is planned to be set up in 2008. Participation of Swedish prosecutors in different international seminars wholly or partly dealing with the EAW was reported as well.

RESTREINT UE

As to judges, there is no training on these matters in the training programme for junior judges. Participation of ordinary judges in the training activities organised by the National Courts Administration is not mandatory. During the evaluation visit the issue of the shortage of training for judges on international matters came out repeatedly. The judges interviewed at the City Court of Stockholm noted, however, that if a particular judge is interested in receiving some training on these issues, or in participating in some seminar abroad, the National Courts Administration provides the necessary resources.

IPO's staff receives in-house training concerning the handling of matters related to the EAW. The objective of such training is that all staff members concerned have enough knowledge to deal with the IPO's part in the handling of EAW matters.

According to the information provided by the Swedish Bar Association, at the time of the visit no specific training on EAW matters had been organised for defence lawyers.

As to language training, the expert team was informed that each Public Prosecution Office has its own budget and can decide to allocate some of the available resources to language training. The IPO provides language training for staff members. The Ministry of Justice provides language training for the officials at the Ministry.

6. DEFENCE PERSPECTIVES

The expert team had the opportunity to meet two representatives of the Bar Association. They explained that, in general, the Swedish Bar is quite actively against the EAW system, the main criticisms being that it offers no possibility of considering the material grounds of the case, restricts the possibility of challenging judicial decisions, and may force those Member States with higher procedural rights standards to allow their nationals to be put in a situation in which those standards are not met.

RESTREINT UE

As to the functioning of the system in practice, two main questions arose during the interview:

- Appointment of a public defence counsel for the requested person¹. According to the information provided, the public defence counsel is appointed by the court from a general list provided by the Bar Association. In this connection it was noted that the number of EAW cases in Sweden is not very high, and therefore the number of members of the Bar who have experience in this area is rather limited.
- Defence counsel's access to case documents. From the lawyers' perspective, they are not granted access to the documents as early as required. On the last day of the visit the Swedish authorities indicated that, during the investigation phase by the prosecutor, the defence counsel has access to the documents that served as a basis for the arrest of the requested person (A and M SIS forms, EAW); as for other possible documents in the file, it is for the prosecutor to grant access. When applying for a court decision on surrender, the prosecutor has to provide the whole of the file to the defence lawyer and the defendant. At this stage both the defendant and the defence counsel may ask the court to request additional information.

7. CONCLUSIONS

The expert team acknowledges the high degree of organization of the visit, and the professional manner in which it was planned and conducted. The experts had the opportunity to meet most of the relevant actors in the different phases of the EAW procedure², and the information provided by the Swedish authorities before and during the evaluation visit was comprehensive³. The team would like to stress the openness of the Swedish experts who participated in the interviews, their willingness to answer any question posed by the members of the team, and their frankness when expressing their own views. The substance of the information provided enabled the team to get a thorough overview of the system in place in Sweden.

¹ Pursuant to Chapter 5, Section 8 of the Act, the costs of the public defence counsel shall be borne by the State.

² The team did not meet any representative of the institutions entitled to request the issue of an EAW in conviction cases, i.e. the National Prison and Probation Service, the National Board of Health and Welfare and the National Board for Institutional Care.

³ Except for statistics. See chapter 7.1 below.

7.1. GENERAL CONCLUSIONS

Implementing legislation

7.1.1. The Swedish implementing legislation is mostly in line with the letter and spirit of the Framework Decision. Divergences can, however, be observed between the transposing legislation and the Framework Decision, mainly in relation to the role played by non-judicial authorities in cardinal aspects of the surrender procedure (e.g. issue of EAWs in conviction cases, consent of the requested person to surrender).

Procedures

7.1.2. Generally speaking the procedures put in place under Swedish law are adequate for the purposes of the Framework Decision. The experts were left with the impression that the Swedish system is successful in terms of the efficiency with which these matters are processed.

7.1.3. However, the application of certain provisions inherent in national procedures (e.g. the summons of the individual as a prerequisite for the detention order that will serve as the basis for the EAW, time limits for appeal) might have an impact on the efficiency of the EAW in particular cases.

7.1.4. Moreover, some aspects of the EAW procedure according to the implementing law need to be further clarified, e.g. as regards the statutory time limits for the decision on surrender¹.

Practical implementation.

7.1.5. Practitioners consider the EAW as a useful tool that speeds up the handling of cases. Some of them, however, dislike the limited opportunities to touch on the material grounds of the case provided by the system.

7.1.6. Generally speaking the practical implementation of the EAW in Sweden seems to be simple and clear, and no serious recidivist problems in relation to other Member States have been reported.

¹ See chapters 4.6 and 4.8 above, and 7.3.1.4 and 7.3.1.7 below.

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7.1.7. Statistics

There are no centralized statistics in Sweden¹. During the evaluation visit², the Prosecutor-General's Office and the IPO each provided the expert team with some pieces of statistical information, but even these did not match. For instance, the Swedish authorities were not able to provide detailed information on the most usual grounds for refusal, or accurate data regarding the EAWs that had resulted in the actual surrender of the requested person in 2007. Even local prosecution offices' figures were unclear and confusing.

7.1.8. Training

The expert team was left with the impression that whereas prosecutors receive appropriate training on EAW matters in general terms, judges seem to lack training to a certain extent. The issue of the shortage of specific and regular training for judges showed up repeatedly during the interviews. In addition, this situation seems to pave the way for a different understanding of the law by judges and prosecutors, as it was demonstrated during the evaluation visit in relation to certain aspects critical to the good functioning of the system.

During the evaluation visit it was clearly admitted that no training on these matters had been organized for defence counsels.

7.1.9. EAW Manual

A comprehensive manual has been produced by the Legal Department at the Office of the Prosecutor-General that gives detailed guidance and provides forms for the handling of both incoming and outgoing EAW cases. This manual is distributed to all prosecutors; it is also available on intranet and internet. The updating of the contents is the responsibility of the Legal Department at the Office of the Prosecutor-General. The expert team considers that the qualities of this manual make it an example to be followed.

¹ See footnote 2 in page 28.

² At the time of the visit Sweden had not replied to the Council General Secretariat's questionnaire on quantitative information on the practical operation of the EAW in the calendar year 2006.

7.1.10. Coordinating group

Meetings are organized on a regular basis (3/4 times per year) by the Ministry of Justice involving all stakeholders who have a role to play in the EAW, with a view to discussing practical issues and to giving information on new developments in the field of judicial cooperation. The outcome of these meetings and other relevant information are made available to judges and prosecutors via intranet by the National Court Administration and the Prosecutor-General's Office respectively. Where appropriate, the Prosecutors' Manual on EAW matters is updated in line with the outcome of these meetings.

7.2. CONCLUSION IN RESPECT OF SWEDEN'S ACTIVITIES AS AN ISSUING MEMBER STATE

7.2.1. Issues

7.2.1.1. The IPO as issuing authority

The fact that in conviction cases the IPO is - at the request of the National Prison and Probation Service, the National Board of Health and Welfare or the National Board of Institutional Care - the authority competent to issue EAWs is not in line with the definition of the EAW as a "judicial decision" in the Framework Decision.

The Swedish authorities explained that their national rules are not so strict in describing the concept of judicial authority. They also explained that, in implementing the Framework Decision, they adopted a pragmatic approach in the sense that they preferred making the EAW procedure as close to their national system as possible (judicial authorities does not play any role in these matters at domestic level, where enforcement of sentences is handled by the Prison Service and the Police). However, the expert team question the validity of these arguments in the light of the clear letter and principles of the Framework Decision, and stress that in such cases the EAW is issued and the form completed - including the summary of the judgment that serves as the basis for the EAW - by IPO officers, with no judicial control being provided by the domestic legislation. It should be a relatively simple matter to arrange for EAWs issued by the IPO to be checked by a prosecutor.

7.2.1.2. Requests for issuing EAWs in conviction cases

There is no regulation or even written guidance governing the decision of the competent administrative authorities in requesting the IPO to issue an EAW. This adds to the absence of judicial control on the issue of EAWs in conviction cases.

In that connection, the expert team would also like to point out that, according to the information provided, one person at the IPO is basically in charge of completing the EAW forms, which makes the system quite vulnerable in this respect.

7.2.1.3. Summons for appearing in court as a prerequisite for issuing an EAW

In Sweden a detention order may only be issued following a court hearing to which the suspect has to be summoned. The Swedish authorities stressed that this is mandatory under the criminal procedure code and there is no possible exemption. The expert team, however, is of the opinion that Sweden should think through whether the summoning of the person concerned is really necessary when the detention order is requested with a view to further issuing an EAW (the officials interviewed themselves recognised that such a provision is conceived for purely domestic cases), since this requirement could serve as a warning and enable the person and possible co-perpetrators to abscond.

7.2.1.4. Temporary surrender

In the case of temporary surrender, Sweden cannot provide guarantees that the person requested will be sent back to the executing State. In fact, pursuant to the Swedish law, if at the end of the proceedings instituted in Sweden the individual is acquitted, he has to be set free and no coercive measure may be imposed in order to return him to the executing State. This has an impact on the Swedish prosecutors' practice not to ask for temporary surrender.

7.2.1.5. Renunciation of entitlement to the speciality rule

Pursuant to the transposing law, the person surrendered to Sweden may renounce entitlement to the speciality rule before an official appointed by the Office of the Prosecutor-General, the National Prison and Probation Administration or the National Board of Institutional Care to receive a declaration of this kind, before the chief medical officer at the unit where a sentence of forensic psychiatric care is being executed, before the prosecutor or, on the authority of the prosecutor, before a police officer who is assisting the investigation. This provision does not seem to be in line with Article 27(3)(f) of the Framework Decision, which expressly provides that such a renunciation shall be given before a judicial authority.

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No mention is made either in the Swedish law to the right of the person to legal counsel in such instances.

7.2.1.6. Replacement of the pre-existing alerts

According to the information provided, pre-existing Article 95 alerts and alerts based on International Arrest Warrants remain valid. They are only replaced with EAWs when a hit abroad takes place. The expert team notes that such a practice may cause problems in relation to some Member States that no longer accept International Arrest Warrants coming from another Member State as a ground for starting to search for a person.

7.2.2. Good practice

7.2.2.1. Proportionality test

In issuing an EAW the Swedish authorities are under a statutory imperative to apply a proportionality test. It has to be noted, however, that whereas in prosecution cases the EAW Manual of the Swedish Prosecution Authority gives detailed guidance on this issue, in conviction cases there are no specific guidelines regarding when to ask for an EAW to be issued and the institutions involved acts on a case-by-case basis.

7.2.2.2. A single unified EAW

It is the practice of the Swedish authorities to issue a single unified EAW that covers all offences supposedly committed by the person concerned, or, in conviction cases, all sentences not being served by the requested person. To that end, EAWs are issued following a comprehensive check of national registers, aimed at detecting any offence the individual can be charged with or any sentence passed against him. The expert team notes that this practice is extremely useful in order to provide the executing authorities with relevant information, and as a means of avoiding potential difficulties or inconveniences for the executing State associated with the processing of multiple EAWs against the same person.

7.3. CONCLUSION IN RESPECT OF SWEDEN'S ACTIVITIES AS AN EXECUTING MEMBER STATE

7.3.1. Issues

7.3.1.1. Prohibitive validity flags

The IPO may add a restrictive validity flag to SIS-alerts where certain limitations arise from national legislation. Such a practice also covers instances where the act is clearly considered not to constitute a crime in Sweden and the issuing State does not refer to a catalogue offence. The expert team found out that in these cases IPO officers issue validity flags without prior consultation of a judicial authority.

7.3.1.2. Information on the competent receiving authorities

The information on the authorities competent to receive an EAW is updated neither in the EAW Atlas nor in the Fiches Françaises. Doc 16288/03 - "Communication to the Secretary-General of the Council on the implementation in Swedish legislation of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and surrender procedures between Member States together with notifications and comments on the Framework Decision" and doc 16331/03 EXT 1 - "Description of the treatment of a European arrest warrant when Sweden is the executing State" have not been updated correspondingly either.

7.3.1.3. Consent to surrender/Renunciation of entitlement to the speciality rule

In the Swedish system consent to surrender and renunciation of entitlement to the speciality rule may be validly obtained as from the time of arrest, and without a need for it to be given before the prosecutor or the court. Moreover, according to the information provided, the assistance of a legal counsel is not required for consent to be valid (see chapter 4.6). In that connection, it must be remembered that the individual has the right to legal assistance from the moment the arrest is ordered by the prosecutor; in practice the defense counsel does not intervene in the first interview with the police after the requested person is apprehended.

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The Swedish authorities explained that the first interview with the police is intended basically to inform the individual of the reasons for his arrest and the contents of the EAW, and in any event he will be asked to consent to surrender on that occasion. They also emphasized that there is a statutory obligation to inform the requested person of the consequences of giving his consent or renunciation. The expert team, however, is of the opinion that there are still points of conflict with the Framework Decision, particularly in relation to the right to legal counsel and the need to give consent before the executing judicial authority.

7.3.1.4. Deadline for the prosecutor to refer the case to the court for a decision on surrender. Whereas the court is under an obligation to issue a decision on surrender within 30 days of the arrest of the requested person unless particular reasons exist, the law does not provide a deadline for the prosecutor to bring the case to court following investigations as to whether surrender can take place. The corresponding provisions are open to interpretation (see chapter 4.6 above) in relation to a number of issues, mainly whether the above-mentioned deadline is binding on the prosecutor, the legal consequences of the prosecutor not submitting a request for surrender within the 30-day time limit, and the impact of such a situation on detention. The expert team had the opportunity to ascertain that the application of such provisions may lead to problematic situations in practice (see chapter 4.6).

7.3.1.5. Dismissal of a case based on the inadequacy of the request
The expert team was unclear about the provisions on dismissal of a case based on the inadequacy of the EAW in form and the concept of "considerable inconvenience" (see chapter 4.3. above).

7.3.1.6. Refusal to surrender on grounds of lapse of time and principle of active personality
Pursuant to the implementing law, surrender must be refused if the sanction for the act is statute-barred according to Swedish law and the requested person is a Swedish national, no matter where the act was committed. This form of transposing Article 4(4) of the Framework Decision, by linking it to the principle of active personality, could be considered formally correct. Moreover, the experts are aware that it is not an uncommon practice among Member States based on Article 8 of the 1996 EU Convention on Extradition. The team, however, is of the opinion that such an understanding is rooted in the system existing prior to the EAW, and therefore "jurisdiction" in Article 4(4) of the Framework Decision should be rather linked to the place of commission and not to nationality. It could be argued that the Framework Decision deals exhaustively with the issue of nationals in Articles 4(6) and 5(3). This issue would merit further reflection at EU level.

7.3.1.7. Time limits for appeals

The time limits for appeals to the Court of Appeal (21 days) and to the Supreme Court (28 days), which are in accordance with the regulation that applies in domestic cases, are structurally too long and may lead to a systematic breach of the 90-day time-limit of the Framework Decision.

Moreover, there is no statutory deadline for the appeal court to issue a decision although it should be done with dispatch - it should be noted that in practice the Court of Appeal will usually decide on an appeal within a few days if the person is in custody.

7.3.1.8. Multiple requests

During the visit to the International Public Prosecutor's Office in Gothenburg the expert team was informed of a case of two competing EAWs where the prosecutor, based on his own assessment of the circumstances of the case, decided to request the court to issue a surrender order in relation to one of them. As for the other one, no motion was submitted to the court, nor was any decision formally adopted and communicated to the issuing authority by the prosecutor.

This practice might not be in line with the implementing law, according to which in the case of multiple EAWs for the same person, the cases shall be tried on a single occasion at the court that is to administer the first case received. The expert team noted that there is no guidance on this matter in the Prosecutors' Manual.

8. RECOMMENDATIONS

8.1. RECOMMENDATIONS TO SWEDEN

GENERAL

Recommendation 1 - Institute the necessary mechanisms to provide complete and reliable statistics on European Arrest Warrants issued, executed or rejected by the Swedish authorities (see 7.1.7)¹.

Recommendation 2 - Adopt measures to ensure that appropriate training programmes are put in place, so that extensive and regular training on EAW is provided, mainly to judges and defence lawyers (see 7.1.8)

¹ See footnote 2 in page 28.

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Recommendation 3 - Consider taking appropriate measures to ensure that EAWs in conviction cases are issued either by a judicial authority or under the supervision of a judicial authority, in line with the provisions of the Framework Decision (see 7.2.1.1).

Recommendation 4 - Produce written guidelines to assist those bodies and institutions entitled to request the issue of an EAW in conviction cases (see 7.2.1.2).

Recommendation 5 - Consider amending the legislation so that there is no need to summon the person concerned to appear in court when the detention order is requested with a view to further issuing an EAW (see 7.2.1.3).

Recommendation 6 - Amend the legislation so that the provisions of the Framework Decision on temporary surrender are made effectively applicable, by enabling the competent authorities to provide guarantees that the requested person will be sent back to the executing State (see 7.2.1.4).

Recommendation 7 - Amend the implementing legislation in order to ensure that renunciation of the entitlement to the speciality rule will be valid only if it is given before a judicial authority and after consultation with a legal counsel (see 7.2.1.5).

Recommendation 8 - Take the necessary steps to ensure that existing SIS alerts based on International arrest warrants are replaced with SIS alerts based on EAWs (see 7.2.1.6).

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Recommendation 9 - Reconsider the current practice of adding restrictive validity flags to SIS-alerts without prior consultation of a judicial authority (see 7.3.1.1).

Recommendation 10 - Update the information on the national authorities competent to receive an EAW provided in the EAW Atlas and the Fiches Françaises, as well as in the notifications to the General Secretariat of the Council (see 7.3.1.2).

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Recommendation 11 - Amend the implementing legislation in order to ensure that consent to surrender and renunciation of the entitlement to the speciality rule will be valid only if it is given by the requested person before a judicial authority and after consultation with a legal counsel, in line with Article 13 of the Framework Decision (see 7.3.1.3).

Recommendation 12 - Clarify the deadline for the prosecutor to refer the case to the court for a decision on surrender, in order to enable the latter to meet the required time limits in accordance with Article 17 of the Framework Decision (see 7.3.1.4).

Recommendation 13 - Consider amending the implementing law so that the statutory time limits for appeal do not lead to a breach of the time-limits stipulated in Article 17 of the Framework Decision (see 7.3.1.6).

Recommendation 14 - Take the measures considered necessary (e.g. through an addition to the Prosecutors' Manual) to ensure that the provisions of the implementing law on competing EAWs are fully complied with (see 7.3.1.8).

8.2. RECOMMENDATIONS TO OTHER MEMBER STATES

Recommendation 15 - Follow the Swedish practice of producing a comprehensive manual to assist practitioners with best practice indicators, practical guidance and forms for the consistent handling of both incoming and outgoing EAW cases (see 7.1.9).

Recommendation 16 - Consider following the Swedish practice regarding the setting up of a coordinating group for the follow-up and monitoring of the EAW with the participation of all stakeholders (see 7.1.10).

Recommendation 17 - Consider following the Swedish practice of issuing a single unified EAW that covers all offences allegedly committed by the person concerned or, in conviction cases, all sentences passed against the requested person (see 7.2.2.2).

8.3. RECOMMENDATIONS TO THE EUROPEAN UNION

Recommendation 18 - Continue the ongoing discussions on the drafting of a European handbook for the proper completion of the EAW form (see 7.1.9).

Recommendation 19 - Continue the ongoing discussions on the benefits of instituting a proportionality test for the issue of EAWs, including the identification of common standard criteria (see 7.2.2.1).

Recommendation 20 - Discuss at the appropriate level whether the grounds for refusal based on Article 4(4) of the Framework Decision should be linked exclusively to the place of commission of the crime and not to the nationality of the perpetrator (see 7.3.1.6).

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ANNEX A

PROGRAMME OF VISITS

Monday 3 December

09.30 – 12.00	Ministry of Justice (Post Festum Room)
12.00 – 13.30	Lunch
13.30 – 17.00	Office of the Prosecutor-General and the International Public Prosecution Office in Stockholm
17.30 – 18.30	Swedish Bar Association, participation of an attorney
20.30	Dinner at Le Rouge in the Old Town

Tuesday 4 December

08.30 – 11.00	City Court of Stockholm, participation also of a Judge of appeal from the Court of Appeal in Stockholm
11.15 – 12.00	International Police Cooperation Division at the Swedish National Police Board (Sirene and Interpol Office)
12.00 – 13.30	Lunch
13.30 – 15.00	International Police Cooperation Division (continuation)
16.10 – 19.17	Train to Gothenburg, departure from the Central Station
21.00	Dinner - a traditional Swedish Christmas Buffet at Trägar'n

Wednesday 5 December

09.00 – 10.30	City Court of Gothenburg
11.00 – 12.30	International Public Prosecution Unit in Gothenburg
12.30 – 14.00	Lunch
16.12 – 19.00	Train to Stockholm, departure from the Central Station

Thursday 6 December

10.00 – 12.30	Round-up meeting at the Ministry of Justice (Post Festum Room), participation of the Office of the Prosecutor-General, the City Court of Stockholm and the International Police Cooperation Division
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LIST OF PERSONS MET

Ministry of Justice, Division for Criminal Cases and International Judicial Cooperation

Håkan Friman, Director and Head of Division

Ulf Wallentheim, Director

Joakim Zetterstedt, Director

Marie Skåninger, Legal Adviser

Office of the Prosecutor-General

Lena Moore, Director and Head of the Legal Department

Ola Löfgren, Chief Public Prosecutor

International Public Prosecution Office in Stockholm

Ylva Johansson, Senior Public Prosecutor

Ingmarie Olsson, Senior Public Prosecutor

International Public Prosecution Office in Gothenburg

Mats Sällström, Chief Public Prosecutor

Thomas Ahlstrand, Deputy Chief Public Prosecutor

Kristina Ehrenborg-Staffas, Senior Public Prosecutor

Thomas Eliasson, Senior Public Prosecutor

Hans Göran Tommila, Senior Public Prosecutor

The Swedish Bar Association

Anne Ramberg, Secretary General

Thomas Olsson, Attorney

City Court of Stockholm

Runar Viksten, Senior Judge

Ida Kärnström, Junior Judge

Liv Bernitz, Junior Judge

City Court of Gothenburg

Katarina Pålsson, Senior Judge

Katarina Wingqvist-Ekholm, Senior Judge

Court of Appeal

Erica Hemtke, Judge of appeal and Deputy Head of Division

Swedish National Police Board, International Police Cooperation Division

Kent Widing, Detective Superintendent and Head of Sirene and Interpol Offices

Carin Johnston, Lawyer

Mikael Smedjegården, Detective Inspector



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ANNEX C

LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

ACRONYM ABBREVIATION TERM	ENGLISH EXPLANATION
EAW	European Arrest Warrant
FD	Framework Decision
IPO	International Police Cooperation Division
MS	Member State
SIS	Schengen Information System
