



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 15 November 2011

16895/11

**CRIMORG 203
COPEN 320
EJN 160
EUROJUST 188**

NOTE

from:	Slovak delegation
to:	Delegations
No. prev. doc.:	7060/2/09 REV 2 CRIMORG 33 COPEN 43 EJN 19 EUROJUST 13
Subject:	Follow-up Report of the Slovak Republic on the Fourth Round of Mutual Evaluation on the Practical Implementation of the European Arrest Warrant

Regarding recommendations contained in the Evaluation Report on the Slovak Republic (document 7060/2/09 REV 2 CRIMORG 33 COPEN 43 EJN 19 EUROJUST 13), the Ministry of Justice of the Slovak Republic states, what has been done in relation to the above mentioned recommendations:

Recommendation No 1 regarding the implementing law to ensure greater clarity has been fulfilled by the Slovak Republic by the adoption of the new Act No 154/2010 Coll. on the European Arrest Warrant.

As to recommendation No 2, the practitioners in the Slovak Republic are currently using the European handbook on how to issue an European Arrest Warrant (8216/2/08 REV 2 COR 1) together with the explanatory report to the new Act No 154/2010 Coll. on the European Arrest Warrant and are being instructed by the Ministry of Justice of the Slovak Republic and the General Prosecutor's Office of the Slovak Republic. The completion of a new handbook requires costs and is therefore planned after the amendment of the EAW legislation transposing Framework Decisions that have not been transposed yet.

Regarding recommendation No 3 the Slovak Republic declares that we have been still working on providing the accessibility to information in the EAW Atlas. Due to encountering some technical malfunctions, there was also a training session under the guidance of an EJM expert in June 2011 at the Ministry of Justice of the Slovak Republic, which dealt with the operation of the new EJM web site. The Slovak Republic declares that it is prepared to supply the information updated in line with the new legislation, as soon as these problems are removed.

The propagation of use of the EJM in the scope of recommendation No 4 has been attained by creating a new EJM web site, and its link can be found on the web site of the Ministry of Justice of the Slovak Republic. There was a request from the Member States to translate this web site to national languages. Due to protraction of this procedure, the Member States received the translation of the web page into the national languages for the verification in August 2011 for the first time. As result, EJM has been and is used by the judicial authorities particularly via EJM contact points, who provide mutual cooperation.

EUROJUST (recommendation No 5) is used amongst the lawyers, particularly by the prosecutors. Slovak judicial authorities can request the information from the national correspondents and the national member of EUROJUST.

Regarding recommendation No 6 regarding the consideration of providing more facilities for practitioners to improve their languages we declare that there is a Judicial Academy providing language courses for judges, prosecutors and court clerks, providing services and covering the whole Slovak territory. It organizes a variety of trainings and the language courses are supported by the state in a form of financial contribution.

Recommendation No 7 – the procedure, when the prosecutor proposing issuance of the EAW to the court needs prior consent of the International Department of General Prosecutor's Office of the Slovak Republic, is kept in place, particularly with regard to a need to assess the proportionality principle. In urgent cases the respective prosecutor is able to react immediately and the prior consent can be given by telephone. The mission has claimed that the actual procedure is restraining the EAW issue practice.

The special provision on the principle of proportionality regarding recommendation No 8 has been implemented into the Slovak legal system in Sect. 5 para 3 of the Act No 154/2010 Coll. on the European Arrest Warrant. According to this provision the court shall not issue the European Arrest Warrant in case that it is known before it has been issued that the surrendered person would be caused a harm, which is inadequate to the intent of the criminal proceedings or to the effects of a criminal offence.

Recommendation No 9 regarding the harmonization of the implementing law in line with the Framework Decision has been fulfilled by the adoption of the Sect. 4 para 2 of the Act No 154/2010 Coll. on the European Arrest Warrant, which regulates the grounds for execution of the European Arrest Warrant.

Sect. 15 para 4 and 5 of the Act No 154/2010 Coll. on the European Arrest Warrant provide for time limits of provisional arrest. If the original EAW accompanied by the translation is not received by the Slovak authorities within 18 days following the capture of a person sought, the court may order release of the person. If the original EAW accompanied by the translation is not received by the Slovak authorities within 40 days following the capture of a person sought, the court is obliged to order release. By adopting the new legislation we consider the recommendation No 10 to be fulfilled.

As far as recommendation No 11 is concerned, by the of the Act No 154/2010 Coll. on the European Arrest Warrant the compulsory detention relating to the offences listed in the Article 2 para 2 of the Framework Decision has been removed. In present, the detention is categorized into provisional arrest and extradition arrest, in line with the case-law of the European Court of Human Rights and the European Court of Justice.

To Recommendation No 12, which suggested removing the reference to “important interests of the Slovak Republic” from the Article 15 para 1 of the implementing law, we declare that as it was presented during the evaluation visit, we consider the actual wording of the relevant legal provision to be correct, taking into account the fact that it is the exact quotation of the EU law, which deals with flagging (Council Decision No. 2007/533/JHA of 12 June 2007).

Recommendation No 13 has been fulfilled by the adoption of the Sect. 23 para 2 of the Act No 154/2010 Coll. on the European Arrest Warrant, which stipulates the optional grounds for refusal of the European Arrest Warrant execution. The refusal of execution of the European Arrest Warrant is no longer mandatory in case that even only a part of a criminal offence has been committed on the territory of the Slovak Republic.

Recommendation No 14 on including of specific provision on additional consent and consent to subsequent surrender in the implementing law has been fulfilled by the adoption of the Sect. 32, 33, 34 and 35 of the Act No 154/2010 Coll. on the European Arrest Warrant. The new provisions provide the regime applicable in cases where a request for consent to prosecute for an offence other than that for which the requested person was surrendered is submitted by the issuing Member State. These also regulate cases with the requests for consent to subsequent surrender.

Recommendation No 15 has been fulfilled to high extent by the adoption of the Sect. 30 of the Act No 154/2010 Coll. on the European Arrest Warrant. This legal provision regulates a temporary surrender. Under the Section 30 of the Act No 154/2010 Coll. on the European Arrest Warrant the Slovak Republic is able to temporarily surrender the person in line with the Article 24, para 2 of the Framework Decision, following a positive decision on surrender and a subsequent decision on the postponement of surrender.

Bratislava, 9 November 2011
